

**Central Administrative Tribunal
Principal Bench, New Delhi**



**O.A. No. 508/2021
M.A. No. 632/2021**

This the 05th day of March, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. YOGENDRA KUMAR SHARMA
SON OF SHRI KAILASH CHANDER SHARMA
AGED ABOUT 44 YEARS,
DESIGNATION- TGT ENGLISH, GROUP-B,
POSTED AT JAWAHAR NAVODAYA VIDYALAYA,
DEVRALA (BHIWANI), HARYANA-127029
RESIDENT OF STAFF QUARTERS,
JAWAHAR NAVODAYA VIDYALAYA,
DEVRALA (BHIWANI), HARYANA-127029
2. ARUN KUMAR GAUR
SON OF SHRI J N GAUR,
AGED ABOUT 43 YEARS,
DESIGNATION- TGT ENGLISH, GROUP-B,
POSTED AT JAWAHAR NAVODAYA VIDYALAYA,
JAFFARPUR KALAN, PO-UJWA, NEW DELHI-110073
RESIDENT OF STAFF QUARTERS,
JAWAHAR NAVODAYA VIDYALAYA,
JAFFARPUR KALAN, PO-UJWA, NEW DELHI-110073
3. TARA CHAND SAINI
SON OF SHRI CHHANGA RAM SAINI,
AGED ABOUT 43 YEARS,
DESIGNATION- PGT BIOLOGY GROUP-B,
POSTED AT JAWAHAR NAVODAYA VIDYALAYA,
VILLAGE- NAICHANA, TEHSIL-BAWAL,
DISTRICT-REWARI, HARYANA - 123501
RESIDENT OF STAFF QUARTERS,
JAWAHAR NAVODAYA VIDYALAYA,
VILLAGE- NAICHANA, TEHSIL-BAWAL,



DISTRICT-REWARI, HARYANA-123501.

4. AMAR SINGH
 SON OF SHRI PARSA RAM,
 AGED ABOUT 45 YEARS,
 DESIGNATION- TGT SOCIAL SCIENCE, GROUP-B,
 POSTED AT JAWAHAR NAVODAYA VIDYALAYA,
 VILLAGE-JAT BARODA, TEHSIL- GANGAPUR CITY,
 DISTRICT- SAWAI MADHOPUR, RAJASTHAN -322201
 RESIDENT OF STAFF QUARTERS,
 JAWAHARNAVODAYA VIDYALAYA,
 VILLAGE-JAT BARODA, TEHSIL- GANGAPUR CITY,
 DISTRICT- SAWAI MADHOPUR, RAJASTHAN -322201

...Applicants

(By Advocate: Shri Bajrang Vats)

VERSUS

1. THE COMMISSIONER,
 NAVODAYA VIDYALAYA SAMITI,
 B-15, INSTITUTIONAL AREA, SECTOR-62, NOIDA,
 DISTRICT- GAUTHAM BUDHNAGAR. UP-201307
2. THE SECRETARY,
 DEPARTMENT OF SCHOOL EDUCATION & LITERACY
 MINISTRY OF EDUCATION
 SHAstri BHAWAN, NEW DELHI-110001.
3. THE SECRETARY,
 DEPARTMENT OF EXPENDITURE,
 MINISTRY OF FINANCE,
 NORTH BLOCK, CENTRAL SECRETARIAT,
 NEW DELHI-110001
4. THE SECRETARY,
 DEPARTMENT OF PERSONNEL & TRAINING,
 MINISTRY OF PERSONNEL, P G AND PENSIONS,
 NORTH BLOCK, CENTRAL SECRETARIAT,
 NEW DELHI-110001

...Respondents

(By Advocate: Shri Y.P. Singh)



ORDER (Oral)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman:

The applicants 1, 2 & 4 are working as Trained Graduate Teachers (TGT) and applicant No.3 as Post Graduate Teacher (PGT) in the Navodaya Vidyalaya Samiti (NVS), the 1st respondent herein. Earlier, they filed OA No.2451/2019 claiming many reliefs, including those of extending the benefit of MACP for the employees of NVS, and the implementation of the recommendations of the 5th, 6th and 7th Central Pay Commissions. In its order dated 21.08.2019, this Tribunal took exception to the manner in which the applicants have instituted the OA. All the same, it was left open to the applicants to make a representation on specific and limited aspects to the concerned authority, through proper channel. A direction was also issued that as and when representation is made, it shall be dealt with in accordance with law.

2. The applicants made a representation to the respondents claiming the benefits under the ACP and MACP Schemes, for the employees of NVS. According to them, though the 1st respondent is an autonomous body, it is governed by the service conditions of central government employees and there was absolutely no basis for the respondents in denying the benefit.



3. On consideration of the representation, the respondents passed an order dated 14.01.2020 rejecting the claim. It was mentioned that the 1st respondent is an autonomous body and no decision was taken to adopt ACP or MACP for its employees and accordingly the claim cannot be accepted. Reference was also made to the OM dated 03.08.2010 received from the DoP&T, the 4th respondent herein.

4. This OA is filed challenging the order dated 14.01.2020 and for a declaration to the effect that condition No. (I) in Para No.1 of OM dated 03.08.2010 is arbitrary, discriminatory and illegal, and for a direction to the respondents to implement the ACP & MACP Schemes. In addition to that, 7 or 8 more reliefs were claimed.

5. The applicants contend that once the 1st respondent is an autonomous body, working under the Ministry of HRD, the employees working therein are entitled to be extended the benefits that are available to the Central Government employees. It is also stated that the ACP and MACP Schemes were framed with an objective of avoiding stagnation and the view taken by the 2nd respondent, which, in turn, was adopted by the 4th respondent, cannot be countenanced at all.



6. We heard Shri Bajrang Vats, learned counsel for the applicants and Shri Y. P. Singh, learned counsel for the respondents.

7. It is rather unfortunate, if not surprising, that the applicants have virtually decided to take on the respondents as though they are the ultimate controlling authorities. If one takes into account the relief claimed in the OA, it would be indeed startling. Even a well organized association of employees would not think of claiming a part of that relief. However, the applicants felt free and entitled to claim the relief with such dimensions.

The prayer reads as under:-

“i) Quash and set aside the impugned Order F. No. 10-25/2019-NVS(Estt.)/279 dated 14.01.2020 (Annexure A-1) of the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS), being illegal, arbitrary, non-speaking, unjust, discriminatory, unwarranted, unreasonable, harsh, iniquitous, unconstitutional, violative of Articles 14, 16 of the Constitution of India.

ii) Hold and declare that the Condition No. (I) of Para 1 of the Clarificatory Office Memorandum No.- 35034/3/2008-Estt(D) Dated 03.08.2010 (Annexure A-2) of the Respondent No. 4 DOPT on applicability of the Modified Assured Career Progression (MACP) Scheme Office Memorandum No.- 35034/3/2008-Estt(D) Dated 19.05.2009 (Annexure A-3) of the Respondent No. 4 DOPT to Autonomous Bodies is arbitrary, discriminatory, unjust, unwarranted, unreasonable, harsh, iniquitous, illegal, unconstitutional, violative of Articles 14, 16 of the Constitution of India, contrary to Clauses 13 and 14 of Annexure -I of the MACP SCHEME of 19.05.2009 (Annexure A-3) and consequently, that this Hon'ble Tribunal be pleased to pass orders to quash and set aside the Condition No. (I) of Para 1 of the Clarificatory Office Memorandum No.- 35034/3/2008-Estt(D) Dated 03.08.2010 (Annexure A-2) of the Respondent No. 4 DOPT on applicability of the Modified Assured Career Progression (MACP) Scheme



Office Memorandum No.- 35034/3/2008-Estt(D) Dated 19.05.2009 (Annexure A-3) of the Respondent No. 4 DOPT to Autonomous Bodies;

iii) further direct the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and Respondent No. 2 Ministry of Education/MHRD to take a conscious decision to adopt the Modified Assured Career Progression (MACP) Scheme Office Memorandum No.-35034/3/2008-Estt(D) Dated 19.05.2009 (Annexure A-3) of the Respondent No. 4 DOPT for teaching staff of the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) w.e.f. 01.09.2008 in place of/to replace the existing Career Advancement Scheme of 1987 Office Memorandum No. F.5.180/86-UT.1 DATED 12.08.1987 (Annexure A-6) of the Respondent No.2 Ministry of Education/MHRD and further Direct the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and Respondent No. 2 Ministry of Education/MHRD to take a conscious decision to adopt the Modified Assured Career Progression(MACP) Scheme Office Memorandum No.- 35034/3/2015-Estt(D) Dated 22.10.2019 of the Respondent No. 4 DOPT (Annexure A-4) w.e.f. 01.01.2016;

iv) Or in alternative, Direct the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and the Respondent No. 2 Ministry of Education/MHRD to take a conscious decision to adopt the Assured Career Progression (ACP) Scheme Office memorandum No. 35034/1/97-Estt(D) Dated 09.08.1999 (Annexure A-7) of the Respondent No. 4 DOPT for teaching staff of the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) w.e.f. 09.08.1999 in place of/to replace the existing Career Advancement Scheme of 1987 Office Memorandum No. F.5.180/86-UT. 1 DATED 12.08.1987 (Annexure A-6) of the Respondent No. 2 Ministry of Education/MHRD at par with teaching staff working in Union Territories under the Respondent No. 2 Ministry of Education/MHRD in terms of Letter/Order No. 12-10/2001/UT-1 Dated 27.07.2005 (Annexure A-8) of the Respondent No. 2 Ministry of Education/MHRD and further direct the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and Respondent No. 2 Ministry of Education/MHRD to take a conscious decision to adopt the Modified Assured Career Progression (MACP) Scheme Office Memorandum No- 35034/3/2008-Estt (D) dated 19.05.2009 (Annexure A-3) of the Respondent No. 4 DOPT w.e.f. 01.09.2008 and further Direct the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and Respondent No. 2 Ministry of Education/MHRD to take a conscious decision to adopt the Modified Assured Career Progression (MACP) Scheme Office Memorandum No. 35034/3/2015-Estt(D) Dated 22.10.2019 of the Respondent No. 4 DOPT (Annexure A-4) w.e.f. 01.01.2016;



v) Or in alternative, Direct the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and the Respondent No. 2 Ministry of Education/MHRD to take a conscious decision to revise/modify the existing Career Advancement Scheme of 1987 office memorandum no. F.5.180/86-Ut.1 Dated 12.08.1987 (Annexure A-6) of the Respondent No. 2 Ministry of Education/MHRD for teaching staff of the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) to implement 6th Central Pay Commission Recommendations on Career Advancement/Assured Career Progression/Modified Assured Career Progression Scheme as accepted and extended by the Government of India for the Teaching staff working in Union Territories under the Respondent No. 2 Ministry of Education/MHRD on Career Advancement/Assured Career Progression/Modified Assured Career Progression Scheme by making necessary improvements/modifications to the extent that three financial upgradations be given to teaching staff of the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) after residency period of 10, 20 and 30 years of service w.e.f. 01.09.2008 and further direct the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and Respondent No. 2 Ministry of Education/MHRD to take a conscious decision to adopt the Modified Assured Career Progression (MACP) Scheme Office Memorandum No- 35034/3/2015-Estt (D) Dated 22.10.2019 of the Respondent No. 4 DOPT (Annexure A-4) w.e.f. 01.01.2016;

vi) Direct the Respondent No. 3 Department of Expenditure and Respondent No. 4 DOPT to give expeditious necessary approvals/concurrence and consultations to the proposal of the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) and the Respondent No. 2 Ministry of Education/MHRD for the implementation of the relief(s) / prayer(s) made in this OA.

vii) Hold and declare the Letter/Order No. 12-10/2001/UT-1 dated 27.07.2005 (Annexure A-8) of the Respondent No. 2 Ministry of Education/MHRD is also squarely applicable to the Respondent No. 1 Navodaya Vidyalaya Samiti (NVS) at par with Union Territories under the Nodal Ministry Respondent No. 2 Ministry of Education/MHRD;

viii) Hold and declare that non-existence of ACP Scheme4 (Annexure A-7) to the teachers of the respondent no. 1 Navodaya Vidyalaya Samiti at par with the teachers working in Union Territories under the Nodal Ministry Respondent No. 2 Ministry of Education/MHRD is arbitrary, unreasonable, harsh, iniquitous, illegal, unconstitutional and is violation of Articles 14, 16, 21, 300-A, 309 of the Constitution of India and consequently, that this Hon'ble Tribunal be pleased to pass orders to hold and declare that the



teachers of the respondent no. 1 Navodaya Vidyalaya Samiti are entitled for extension of ACP Scheme (Annexure A-7) w.e.f. 09.08.1999 in supersession of existing Career Advancement Scheme of 1987 at par with teachers working in Union Territories under the Nodal Ministry Respondent No. 2 Ministry of Education/MHRD in terms of Letter/Order No. 12-10/2001/UT-1 dated 27.07.2005 (Annexure A-8) of the Respondent No. 2 Ministry of Education/MHRD.

ix) Any other order(s)/direction(s) in the interest of justice.”

8. This is not for the first time that the applicants have exhibited their feeling of not being bound by any discipline. Almost with the same relief, they filed the OA No. 2451/2019 earlier. This Tribunal expressed its displeasure in its order in the following manner:-

“4. The OA is not maintainable for the reason that the reliefs claimed in it are unconnected with each other, e.g., introduction of ACP/MACP have nothing to do with the implementation of the 5th, 6th and 7th Pay Commissions' recommendations. Various other reliefs are totally disconnected with each other. The OA ought not to have been numbered at all.

5. Be that as it may, in case the applicants have any individual grievance, on any particular aspect, it shall be open to them to file a representation to the concerned authority through proper channel. If they make any effort to submit the representation to higher authority, other than through proper channel, that shall be treated as an act of indiscipline, by itself.

6. The OA is disposed of, leaving it open to the applicants to file representation on specific and limited aspects to the concerned authority, through proper channel. As and when such a representation is made, it shall be dealt with, in accordance with law, within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.”



9. At least when the applicants were shown indulgence of making a representation, one would expect them to be a bit hesitant and introspective. However, they became flamboyant and repeated the same prayer in this OA also.

10. There is challenge to the order dated 14.01.2020 which was passed by the respondents on the representation made by the applicants. It is in relation to the benefit of ACP and MACP. It is fairly well known that the ACP was introduced as an anti stagnation measure for the employees of the Central Government. This was replaced by MACP on the basis of the 6th Central Pay Commission's recommendations. Doubts were expressed at various stages as to whether the benefit of MACP can be extended to the employees of various organizations. The DoP&T, being the nodal agency ascertained the views of the Department of expenditure and ultimately issued OM dated 13.08.2010. It reads as under:-

"The undersigned is directed to invite reference to the Department of Personnel & Training (DOP&T)'s Office Memorandum of even number dated the 19th May, 2009 on the subject cited above. Consequent upon introduction of the Modified Assured Career Progression Scheme (MACPS), in view of para 14 of the Annexure-I of the Scheme, a number of proposals/references seeking extension of the Scheme to Central Autonomous/Statutory Bodies under various Ministries/Departments



have been received by the Department of Expenditure. The Department of Expenditure has felt that keeping the large number of Central Autonomous/Statutory Bodies in view, it would be appropriate to delegate the power of approving such proposals to the administrative Ministries/Departments concerned. The Department of Expenditure has accordingly approved for extending the benefits of the MACPS to the Central Autonomous/Statutory Bodies under various Ministries/Departments subject to them satisfying the following four conditions:

- (i) The earlier ACP Scheme was also implemented/adopted by the said Autonomous/Statutory Body.
- (ii) The proposal to adopt MACP Scheme has been approved by the Governing Body/Board of Directors.
- (iii) The Administrative Ministry/Financial Adviser of the Ministry has concurred with the proposal.
- (iv) The financial implications of adoption of MACP Scheme have been taken into account by the Organisation/Body and the additional financial implications can be met by it within the existing Budget Grants.

2. As per the revised arrangement, the proposal shall be processed by the Financial Advisor concerned in the first instance and subject to it meeting the requirements spelt out at (i), (ii) and (iv) above, he would obtain the orders of the administrative Head/Secretary concerned for approving the extension of MACPS to such a body.

3. Above is brought to the notice of all concerned Ministry/Department In continuation of para 14 of Annexure-I of MACPS dated 19.05.2009.

4. Hindi version will follow."



11. The applicants now challenge the condition No.1 incorporated in the OM. According to them, even if the ACP was not in force in the 1st respondent organization, the MACP ought to have been implemented. One cannot understand the approach of the applicants at all. Once the competent authority clarified that the MACP can be implemented only when ACP was in force, they cannot turn up and make a challenge.

12. Reference is made to certain paragraphs of the MACP Scheme. There again, the approach of the applicants is totally misconceived. The MACP cannot be implemented independently unless the organization was implementing the ACP. Be that as it may, the applicants were very much aware about the service conditions prevailing in the organization when they joined the service. There cannot be any plausible objection for claiming any benefit. However, there is a limit for that and one cannot take the organization for a ride.

13. Being an autonomous body, the 1st respondent has its own discretion to prescribe the service conditions and to revise them from time to time. It cannot be compelled to implement any particular scheme, that too, which has got serious financial implications.



14. We do not find any merit in the OA, and accordingly dismiss the same Pending MA shall also stand disposed of.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (J)

(Justice L. Narasimha Reddy)
Chairman

/pj/ns/ankit/akshaya/