



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

**O.A. No. 1156/2018**

**This the 16<sup>th</sup> day of February, 2021**

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

Shri Harish Kumar Pruthi  
S/o Sh. Gurdyal Pruthi  
R/o 1518/3, Para Mohalla  
Rohtak (Haryana) Aged about 57 years  
Presently Posted as Assistant Commissioner –  
Customs, Inland Container Depot, Patparganj,  
New Delhi (Group A)

...Applicant

(By Advocate : Ms. Jasvinder Kaur)

**VERSUS**

1. Union of India through M/o Finance  
Secretary, Department of Revenue,  
North Block, New Delhi
2. Central Board of Excise and Customs  
Through its Secretary, North Block, New Delhi
3. Commissioner, (Cadre Control Unit)  
Delhi – 1, Goods & Service Tax, North Delhi  
(Previously known as Central Excise & Service Tax  
(Delhi) CRB Building, I.P. Estate, New Delhi)

...Respondents

(By Advocate : Shri Rajeev Kumar)

**ORDER (Oral)****Hon'ble Mr. Justice L. Narasimha Reddy, Chairman:**

The applicant joined the service of Central Board of Excise and Customs in the year 1985. Since, he did not get any promotion in the first spell of 10 years of his service, he was extended the benefit of 1<sup>st</sup> ACP through order dated 12.10.1999, w.e.f 09.08.1999. Thereafter, the applicant was promoted to the post of Superintendent in the month of September, 2002. He was extended the benefit of Non Functional Upgradation (NFU) in the year 2006, on completion of 4 years of his service in the Grade Pay of Rs.4800/-. He was also promoted to the post of Assistant Commissioner in the year 2014 and ultimately he retired recently from service on 31.01.2021.

2. The applicant made a request for extension of the benefit of 3<sup>rd</sup> MACP, stating that between the spell of 20 and 30 years of his service, he did not get any promotion. Respondents, issued a reply dated 16.02.2018, stating that the NFU extended to the applicant in the year 2006 would offset the 3<sup>rd</sup> MACP. The same is challenged in this OA.

3. The applicant contends that he was promoted to the post of Superintendent and that the NFU accrued to him on



account of completion of 4 years in a scale and that the NFU cannot offset substantive benefit like MACP.

4. Respondents filed the counter affidavit reiterating the stand taken in the impugned order.

5. We heard Ms. Jasvinder Kaur, counsel for applicant and Shri Rajeev Kumar, counsel for respondents.

6. The claim in this OA is only for benefit of 3<sup>rd</sup> MACP. The applicant was extended the benefit of 1<sup>st</sup> ACP, and one promotion, by the time, the scheme of MACP came into force. Unlike in the case of ACP, any upgradation and not necessarily promotion, would offset the career progression through the MACP. It is not in dispute that the applicant got NFU in the year 2006 after four years of service in the Grade Pay of Rs. 4,800/-, and he was put in the Grade Pay of Rs. 5400/-. When such is the phenomenal increase in his pay, the occasion to extend the benefit of MACP does not arise at all. The uncertainty which prevailed as to whether MACP can be offset only through regular promotion or any other financial upgradation was put at rest by the Hon'ble Supreme Court. It was held that in whatever form upgradation would offset MACP.



7. We do not find any merit in the OA and the same is accordingly, dismissed.

There shall be no order as to costs.

**(Aradhana Johri)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/pj/rk/akshaya/sd