

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/021/01209/2014**

HYDERABAD, this the 15<sup>th</sup> day of October, 2020

**Hon'ble Mr. Ashish Kalia, Judl. Member  
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



T.Venkateswarulu S/o Late Narayana Murthy,  
Aged about 54 years, Occ : Audit Assistant,  
Navodaya Vidyalaya Samithi,  
Regional Office, Hyderabad, R/o Hyderabad. ....Applicant

(By Advocate : Mr.Siva)

Vs.

1. Union of India Rep by the  
Secretary to Government ,  
Ministry of Human Resources Development,  
Department of School Education and Literacy,  
New Delhi.
2. The Secretary to Government,  
Ministry of Personnel, Public Grievances and Pensions,  
Department of Personnel and Training, New Delhi.
3. Navodaya Vidyalaya Samiti,  
(An autonomous Organization),  
Ministry of Human Resources Development,  
Department of School Education and Literacy,  
B-15, Institutional Area, Sector-62, NOIDA,  
Uttar Pradesh-201309. ....Respondents

(By Advocate : Mr.N.Srinatha Rao, SC for NVS)

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**ORAL ORDER**  
**(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)**

**Through Video Conferencing:**

2. The O.A. is filed for having rejected the applicant's request to grant the benefit of Modified Assured Career Progression Scheme by allowing Grade Pay in the next higher post in the hierarchy of the Navodaya Vidayala Sangathan, for short- NVS.

3. The brief facts of the case are that the applicant was appointed to the post of Audit Assistant in NVS and he joined the said post on 13.12.1991. With the advent of the V Pay Commission, the Govt. of India has implemented ACP Scheme wherein Financial Up-gradations are given in the next hierarchical grade, if in case no promotion is granted within a period of 12 years and 24 years respectively. As far as isolated posts are concerned, the scheme detailed pay scales numbered as S1, S2, etc. and the incumbents of such posts would be given the next higher scale in the table attached to the scheme. Thereafter, VI Pay Commission was implemented and MACP scheme was brought into vogue which provides for financial up-gradation, if there is any stagnation in any post for a period of 10 years. The financial up-gradations are given in interval of 10, 20 & 30 years. The Pay attached to the post of Audit Assistant as per VI Pay Commission is Rs.5000-8000/- and the next post in the hierarchy was Section Officer in the pay scale of Rs.6500-10500/. The next higher post to Section Officer is Assistant Commissioner where the scale has been fixed as Rs.10000-15200/. After the VI Pay Commission's recommendations were accepted by the Govt. of India, the posts of Audit Assistant & Section Officer have



been placed in pay band with Grade Pay Rs.4600/- & Rs.4800/- respectively. The post of Assistant Commissioner was granted the pay band of PB-3 of Rs.15600-39100/- with Grade Pay of Rs.6600/-. As the applicant was appointed as an Audit Assistant on 13.12.1991 and as he has not earned a single promotion, though he has put in 23 years of service, he would be entitled to financial up-gradation under MACP scheme. Respondents are bound to grant his up-gradation to which he is entitled. The 2<sup>nd</sup> financial up-gradation is liable to be given in the pay band prescribed for the post of Assistant Commissioner, which has the Grade Pay of Rs.6600/-. The 3<sup>rd</sup> respondent however granted the 1<sup>st</sup> financial up-gradation after 12 years and the same was revised as per the Revised Pay Rules 2008 granting Grade Pay of Rs.4600/-. The 2<sup>nd</sup> financial up-gradation was due in 2011 and the same was granted w.e.f. 13.12.2011. However, the 3<sup>rd</sup> respondent has granted the Grade Pay of Rs.4800/- as against the eligibility of Rs.6600/-. Applicant being aggrieved by the action of the respondents in not getting the benefit for which he is entitled, submitted a representation on 9.5.2014 to the Deputy Commissioner of NVS, by enclosing the orders of the judicial fora. However, the request was rejected on 7.7.2014. The basis for rejection was the letter addressed by the 2<sup>nd</sup> respondent dated 19.8.2013 to the Registrar of the Principal Bench of Central Administrative Tribunal. Aggrieved over his request being rejected, O.A. has been filed.

4. The contentions of the applicant are that the 3<sup>rd</sup> respondent has issued order dated 1.4.2002 detailing the method and manner of implementing the ACP Scheme. As per the annexure appended to the same, it has been pointed out that the person holding the post of Audit Assistant would be

granted the scale attached to the post of Section Officer and the Assistant Commissioner on putting 12 & 24 years of service. Since the MACP scheme is only an extension of the earlier scheme with the modification assuring three financial up-gradations as against the two provided in the ACPS, the applicant would be entitled to the pay band and grade pay attached to the post of Assistant Commissioner when he has to be given the benefit of 2<sup>nd</sup> financial up-gradation. The orders of the Tribunal affirmed by the Hon'ble High Courts are appended in support of the contention. The 3<sup>rd</sup> respondent has not applied his mind in disposing of the representation dated 9.5.2014. No reasons have been given while rejecting the request. Applicant relied upon the judgment of Hon'ble Chandigarh Bench of this Tribunal in support of his cause. As a result of wrong fixation, applicant is paid much less than what he is legally permitted.

5. In the reply statement respondents submit that the MACP scheme was introduced vide O.M. dated 19.5.2009. Ministry of Human Resources Development vide letter dated 22.12.2010 has permitted the grant of financial up-gradation under MACP to non-teaching employees. As per rules under MACP, financial up-gradation is available in the immediate next higher grade pay. The financial up-gradations are given when any employee stagnates in a particular grade for 10 years and three such financial up-gradations are given in the career of an employee in the interval of 10, 20 & 30 years. A further clarification was given in O.M. dated 9.9.2010 that the up-gradation under MACP shall be in the immediate next higher grade pay in the hierarchy of the recommended revised pay band and grade pay as prescribed in CCS (RP) Rules, 2008. The ACP & MACP schemes have distinct features. Therefore, the principle

of ACP cannot be applied to the MACP scheme. Earlier, ACP scheme provided placement in a higher scale of the next promotional post in the hierarchy of the pay scale after 12 & 24 years of service.

6. Heard Sri Siva, learned counsel for the applicant and Sri N. Srinatha Rao, learned counsel for the respondents and perused the pleadings on record.

7. The dispute is in regard to grant of financial up-gradation under MACP scheme. Applicant states that he has been granted Rs.4800/- as Grade Pay instead of Rs.6600/- when he was given the 2<sup>nd</sup> financial up-gradation. Interestingly, applicant has come out with a peculiar logic stating that MACP scheme is just an extension of ACP scheme and therefore what has been done in ACP scheme has to be followed. It is not so simple as is attempted to be made out. Therefore, we do not agree with this logic stated. The ACP scheme is totally on a different platform wherein two financial up-gradations are granted after rendering 12 & 24 years of service for stagnating in a given grade, in the next hierarchical level. In ACP scheme, it was spelt out that the financial upgradation that would be granted will be in the next higher post in the hierarchy of the posts prescribed in the respondent's organization. Therefore, under ACP scheme, the logic of the applicant is valid since the financial up-gradation has to be the one associated with the next higher promotional post. However, with the advent of the MACP scheme, the scenario has totally changed. The MACPS envisages merely placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay as given in the CCS (Revised Pay) Rules, 2008. Therefore, the question of granting grade pay of the next higher promotional post is

not permitted under MACP scheme. The applicant has cited the orders of this Tribunal in O.A. No.93/2015 dated 18.3.2016 & OA No.52/2014. Contesting the same, learned counsel for the respondents has cited O.A.

No.925/2014 & OA No.701/2014 wherein this Tribunal has rejected similar relief as has been prayed for by the applicant in the instant O.A. Moreover, Hon'ble Supreme Court, recently in ***Union of India & Others v. M.V. Mohanan Nair in Civil Appeal No. 2016 of 2020 (Arising out of SLP (C) No.21803/2014) & batch***, has observed that in MACP, financial up-

gradation shall be granted only in the immediate next higher grade pay.

Relevant observations of the Hon'ble Supreme Court are as under:

*“28. The object behind the MACP Scheme is to provide relief against the stagnation. If the arguments of the respondents are to be accepted, they would be entitled to be paid in accordance with the grade pay offered to a promotee; but yet not assume the responsibilities of a promotee. As submitted on behalf of Union of India, if the employees are entitled to enjoy Grade Pay in the next promotional hierarchy, without the commensurate responsibilities as a matter of routine, it would have an adverse impact on the efficiency of administration.*

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*35. The prescription of Pay Scales and incentives are matters where decision is taken by the Government based upon the recommendation of the expert bodies like Pay Commission and several relevant factors including financial implication and court cannot substitute its views. As held in Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC 72, the court should approach such matters with restraint and interfere only when the court is satisfied that the decision of the Government is arbitrary. Even in a case where the court takes the view that order/Scheme passed by the Government is not an equitable one, ordinarily only a direction could be given to the State Government or the authority for consideration of the matter and take a decision. In the present batch of cases where the respondents are claiming financial upgradation in the grade pay of promotional hierarchy, no grounds are made out to show that the MACP Scheme granting financial upgradation in the next grade pay is arbitrary and unjust; warranting interference. The implementation of the MACP Scheme is claimed to have led to certain anomalies; but as pointed out earlier, MACP Scheme itself is not under challenge.”*





With the Hon'ble Supreme Court, clearing the mist about the dispute in question, there is nothing further for us to intervene on behalf of the applicant. Hence other averments made by the applicant are not tenable. Respondents have taken proper action in granting the next higher grade pay of Rs.4800/- to the applicant. He is not entitled to the grade pay of Rs.6600/- as prayed for in view of the MACP guidelines explained above. Therefore, for reasons stated supra, finding no merit in the O.A., we dismiss the same with no order as to costs.

**(B.V.SUDHAKAR)**  
**ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

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