

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/303/2020

HYDERABAD, this the 8th day of July, 2020

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

1. B. Prabhakar Reddy, S/o. B. Subhan Reddy,
Aged about 53 years, T.No.1523-1,
Fitter (G) HSG-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddu Milaram – 502 205,
Medak District, Telangana.
2. K. Mohana Rao, S/o. K. Nageswara Rao,
Aged about 57 years, T.No.918-1,
Fitter, Highly Skilled Grade-I, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddu Milaram – 502 205,
Medak District, Telangana.
3. A. Sathyanarayana, S/o. A. Bhoomaiah,
Aged about 54 years, T.No.1193-6,
Fitte/ELE, Highly Skilled Grade-I, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddu Milaram – 502 205,
Medak District, Telangana.
4. C. Purushotham, S/o. C.L.N. Rao,
Aged about 53 years, T.No.916-7,
Fitter (G) HS Grade-I, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddu Milaram – 502 205,
Medak District, Telangana.
5. G. Pradeep, S/o. G.U.N. Rao (Late),
Aged about 57 years, T.No.1270-2,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddu Milaram – 502 205,
Medak District, Telangana.
6. P. Sathaiah, S/o. P. Somaiah,
Aged about 51 years, T.No.1271-9,
Fitter (G) HS Gr-I, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddu Milaram – 502 205,

Medak District, Telangana.

7. K. AnanthaRamulu, S/o. K. Venkaiah,
Aged about 50 years, T.No.1019-2,
Fitter (G) HS Gr-I, Final Acceptance
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
8. SMD. Shafi, S/o. Md. Shareef,
Aged about 51 years, T.No.888-3,
Fitter (G) HS Gr-I, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
9. B. Sudhakar, S/o. B. Balakistaiah,
Aged about 55 years, T.No.1976-8,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
10. U. Pentaiah, S/o. U. Balaiah (Late),
Aged about 53 years, T.No.1060-1,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
11. G. Chandrashekhar, S/o. G. Krishnaiah,
Aged about 51 years, T.No.1241-6,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
12. K. Laxminarayana, S/o. K. Babaiah,
Aged about 52 years, T.No.1247-6,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
13. G. Arvind Kumar, S/o. G. Ganga Ram,
Aged about 54 years, T.No.1244-6,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.

14. G. Venkatreddy, S/o. G.N. Reddy,
Aged about 51 years, T.No.1246-9,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, YedduMilaram – 502 205,
Medak District, Telangana.
15. S. Balaiah, S/o. S. Ramulu,
Aged about 54 years, T.No.1242-3,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, YedduMilaram – 502 205,
Medak District, Telangana.
16. P. Rajendram, S/o. P.N. Ramulu,
Aged about 56 years, T.No.1269-5,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, YedduMilaram – 502 205,
Medak District, Telangana.
17. A. Srinivas, S/o. A. Ramchandram,
Aged about 51 years, T.No.1311-5,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, YedduMilaram – 502 205,
Medak District, Telangana.
18. L. Balnarsaiah, S/o. L. Venkataiah,
Aged about 52 years, T.No.1267-1,
Fitter (G) HSG-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, YedduMilaram – 502 205,
Medak District, Telangana.
19. P. Laxman, S/o. P.Venaiah (Late),
Aged about 51 years, T.No.1022-3,
Fitter (G) HS Gr-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, YedduMilaram – 502 205,
Medak District, Telangana.
20. G. Venugopal, S/o. G. Ragavaiah,
Aged about 55 years, T.No.1240-9,
Fitter (G) HS Gr-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, YedduMilaram – 502 205,
Medak District, Telangana.
21. M. RangaRao, S/o. NarayanaRao,
Aged about 53 years, T.No.1262-8,

Fitter (G) HS Gr-II, Final Acceptance,
 Ordnance Factory Medak, Govt. of India,
 Ministry of Defence, Yeddumilaram – 502 205,
 Medak District, Telangana.

22. P. Narayanareddy, S/o. P.P. Reddy,
 Aged about 57 years, T.No.1260-5,
 Fitter (G) HS Gr-II, Vehicle Assembly,
 Ordnance Factory Medak, Govt. of India,
 Ministry of Defence, Yeddumilaram – 502 205,
 Medak District, Telangana.

23. I. Sathyanarayana, S/o. S. Ballingam,
 Aged about 54 years, T.No.1057-9,
 Fitter (G) HS Gr-II, Final Acceptance,
 Ordnance Factory Medak, Govt. of India,
 Ministry of Defence, Yeddumilaram – 502 205,
 Medak District, Telangana.

24. CH. PrabhakarRaju, S/o. Ch. SakethaRaju,
 Aged about 52 years, T.No.1265-8,
 Fitter (G) HS Gr-II,
 Ordnance Factory Medak, Govt. of India,
 Ministry of Defence, Yeddumilaram – 502 205,
 Medak District, Telangana.

25. B. Veerareddy, S/o. B. Gopal Reddy,
 Aged about 55 years, T.No.1399-1,
 Fitter (G) HS G-II, Vehicle Assembly,
 Ordnance Factory Medak, Govt. of India,
 Ministry of Defence, Yeddumilaram – 502 205,
 Medak District, Telangana.

26. S. Venkataramana, S/o.S. Surya Narayana,
 Aged about 54 years, T.No.1518-6,
 Fitter (G) HS G-II, VA,
 Ordnance Factory Medak, Govt. of India,
 Ministry of Defence, Yeddumilaram – 502 205,
 Medak District, Telangana.

27. Vasanthavenu, S/o. V. Buchaiah,
 Aged about 58 years, T.No.1319-8,
 Fitter (G) HS G-II, Vehicle Assembly,
 Ordnance Factory Medak, Govt. of India,
 Ministry of Defence, Yeddumilaram – 502 205,
 Medak District, Telangana.

28. T. Manikyareddy, S/o. T. Janga Reddy,
 Aged about 54 years, T.No.1363-7,
 Fitter (G) HS G-II, Vehicle Assembly,
 Ordnance Factory Medak, Govt. of India,

Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.

29. T. Jagadishwar, S/o. T. Raja Ram,
Aged about 53 years, T.No.1314-5,
Fitter (G) HS G-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
30. G. Prabhakar Reddy, S/o. G. Ambadas Reddy,
Aged about 55 years, T.No.1512-6,
Fitter (G) HS G-II, V. A,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
31. MVSN. Raju, S/o. M. Rama Raju,
Aged about 52 years, T.No.1492-6,
Fitter (G) HS G-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
32. R. Venkataswamy, S/o. R. Dubbaiah,
Aged about 55 years, T.No.1516-3,
Fitter (G) HS G-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
33. V. Srinivas, S/o. V. Narayana (Late),
Aged about 52 years, T.No.1483-5,
Fitter (G) HS G-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
34. T. Srinivas Reddy, S/o. T. Subba Reddy,
Aged about 56 years, T.No.15133,
Fitter (G) HS G-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.
35. P. Sathyanarayana, S/o. P. Balanarsu,
Aged about 56 years, T.No.1525-4,
MILLWRIGHT HS G-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yeddumilaram – 502 205,
Medak District, Telangana.

36. CH. Janardhan, S/o. Ch. Sivaramulu,
Aged about 54 years, T.No.1297-5,
Fitter (G) HS G-II, Vehicle Assembly,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

37. N. Muthyalu, S/o. N. Nara Goud,
Aged about 56 years, T.No.1641-5,
Fitter (G) HS G-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

38. P. Veeresham, S/o. P. Kistaiah,
Aged about 51 years, T.No.1360-7,
Fitter (G) HS G-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

39. B. Sathireddy, S/o. B. Hanuma Reddy,
Aged about 57 years, T.No.1519-3,
Fitter (G) HS G-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

40. A. Gopalakrishna, S/o. A. Sesaiah,
Aged about 58 years, T.No.1655-9,
Fitter (G) HS G-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

41. K. Bhasker Reddy, S/o. K.V. Reddy,
Aged about 54 years, T.No.798-8,
Fitter (G) HS Gr-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

42. T. Kishore, S/o. Maher Singh,
Aged about 54 years, T.No.955-2,
Fitter (G) HS Gr-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

43. M. Srinivasulu, S/o. M. Venkatesham,
Aged about 50 years, T.No.1058-6,
Fitter (G) HS Gr-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

44. K. Ashok, S/o. K. Ramadas (Late),
Aged about 53 years, T.No.1496-3,
Fitter (G) Skilled Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

45. K. RajeswaraRao, S/o. K. Lordhu,
Aged about 52 years, T.No.1737-9,
Fitter (G) HS Gr-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

46. Boddu Ravi, S/o. B. Ramalingam,
Aged about 44 years, T.No.1945-8,
ELECTRICIAN HS GR-II, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

47. B. Krishna Reddy, S/o. B. Somi Reddy,
Aged about 57 years, T.No.1735-6,
Fitter/ELE... HS GR-I, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

48. B. Mallaiah, S/o. B. Yellaiah,
Aged about 56 years, T.No.1256-7,
Fitter (G) HS GR-I, Final Acceptance,
Ordnance Factory Medak, Govt. of India,
Ministry of Defence, Yedumilaram – 502 205,
Medak District, Telangana.

49. K. Srinivas Reddy, S/o. K. Raghuma Reddy,
Aged about 55 years, T.No.1328-9,
EXAMINAR HS GR-I, A QA,VA,
Ordnance Factory Medak,
Yedumilaram – 502 205.

... Applicants

(By Advocate: Mr. T. KoteswaraRao)

Vs.

1. Union of India rep. by
The Secretary to Govt. of India,
Ministry of Defence, South Block,
New Delhi – 110 001.
2. The Director General of Ordnance Factories
And Chairman Ordnance Factory Board,
10A, SaheedKhudiram Bose Road,
Kolkata – 700 001.
3. The General Manager,
Ordnance Factory,
Govt. of India, Ministry of Defence,
Yeddu-mailaram, Telangana - 502 205.
4. The Secretary, Government of India,
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training),
North Block, New Delhi – 110 001.

... Respondents

(By Advocate: Mrs. K. Rajitha, Sr. CGSC)

OR D E R (ORAL)

Hon'ble Mr. B.V. Sudhakar, Admn. Member

Through Video Conferencing

The applicants were recruited as Semi-Skilled workers in the years from 1987 to 1990 in the respondent's organization and were granted Skilled Grade, after completion of two years. The respondents have re-structured the cadre of Artisans w.e.f. 01.01.1996, whereby the posts of Highly Skilled Gr.II & I were merged into a single Highly Skilled Grade post by order dated 20.05.2003. Thereupon, one more re-structuring of the Artisans was done w.e.f. 01.01.2006 wherein Highly Skilled Grade posts were split into Highly Skilled Gr.II& Highly Skilled Gr.I posts (VI CPC) by order dated 13.12.2010. The movement of the employees from Highly Skilled Gr.II to Highly Skilled Gr.I was treated as promotion by orders issued on 01.12.2010 & 20.06.2011. The issue of treating

the movement as promotion was challenged before the Hon'ble Principal Bench of this Tribunal in O.A. No.4101/2012, wherein the orders issued by the respondents dated 01.12.2010, 20.06.2011& 12.5.2012 were set aside vide order dated 13.11.2013. Consequently, the applicants herein have also filed O.A. No.122/2015 before this Tribunal, claiming similar benefit. This Tribunal vide order dated 18.02.2016 directed the respondents to extend the benefits granted by the Hon'ble Principal Bench of this Tribunal in O.A. No.4101/2012 and Hon'ble Calcutta Bench in OA No.172 of 2012.

2. On challenging the said orders of the Tribunal by the respondents, the Hon'ble High Court at Hyderabad in W.P. No.21348 of 2016 by judgement dated 28.3.2017 modified the orders of this Tribunal in OA 122 of 2015 by holding that order of this Bench would be implemented only if the challenge made by the respondents against the orders in OA No.4101 of 2012 on the file of the Hon'ble Principal Bench and OA No. 172 of 2012 on the file of the Calcutta Bench of this Tribunal before the jurisdictional High Courts fails. Subsequently, when a similar order passed by the Hon'ble Allahabad Bench of this Tribunal was implemented, the applicants herein filed a review petition before the Hon'ble High Court at Hyderabad seeking review of its order dt.28.3.2017 in WP 21348/2016. By order dated 8.7.2019, Hon'ble High Court at Hyderabad, while allowing the Review Petition in W.P. No.21348 of 2016, directed the respondents to abide by and implement the orders of the Tribunal in O.A. No.122 of 2015 forthwith on par with those covered by the order passed by the Allahabad Bench of the Tribunal and such compliance would be subject to the outcome of the challenge laid by the authorities to the orders passed by the Allahabad Bench, Principal Bench and Calcutta Bench of this Tribunal before the jurisdictional High Courts. The

respondents by order dated 11.9.2019 have implemented the orders of the Tribunal in O.A. No. 122 of 2015 as directed by the Hon'ble High Court. However, by order dated 05.06.2020 respondents cancelled the previous orders and thereby, denying the benefits directed to be granted in O.A. No.122/2015. Aggrieved by the same, the O.A. has been filed.

3. The contentions of the applicants are that the respondent authorities have not furnished any reason in regard to the relevancy of the judgement of the Hon'ble Apex Court dealing with the MACPS qua the present issue of cadre restructuring in the impugned order dated 5.6.2020 for withdrawing the benefits already granted in pursuance of the orders of the Hon'ble High Court. The respondents were directed to abide by the orders of the Hon'ble High Court and implement the orders passed by this Tribunal in O.A. No.122/2015 on par with those before the Allahabad Bench of this Tribunal. Such compliance was however, subject to the result of the challenge laid by the authorities to the orders of the Benches of the Tribunal at Allahabad, New Delhi and Calcutta before the jurisdictional High Courts and the result is awaited. The Writ Petitions are still pending before the jurisdictional High Courts in regard to the present matter and there is no evidence to hold that the judgement and orders of the Hon'ble Apex Court covers the pending matters. Therefore, the impugned orders are invalid. Hon'ble Apex Court has decided the MACP issue as to whether under MACP Scheme, financial upgradation to be granted in the promotional hierarchy or Grade Pay hierarchy, as decided in the Raj Pal case by the Central Administrative Tribunal, Chandigarh Bench and confirmed by the jurisdictional High Court, whereas in the instant case, Principal Bench of Central Administrative Tribunal decided the issue based on its earlier decision in F.C. Jain case (OA 818/2000).

As such, the directions in respect of those cases cannot be compared with each other.

4. Heard Sri T. Koteswara Rao, learned counsel for the applicants and Smt. K. Rajitha, learned Senior Standing Counsel appearing for the respondents, and perused the material available on record.

5. Learned counsel for the applicants prayed that till the verdict of the Hon'ble High Court of Allahabad is delivered, recovery from the salaries of the applicants may be stayed. Learned counsel for the respondents drew our attention to the impugned order, claiming that the recovery was based on the undertaking given by the applicants and that too, in pursuance of the judgment dated 05.03.2020 of the Hon'ble Supreme Court. In response, learned counsel for the applicants submitted that the Hon'ble Apex Court in Union of India vs. M.V. Mohanan Nair (Civil Appeal no. 2016/2020) has decided the question whether MACP Scheme entitles financial upgradation to the next grade pay or to the grade pay of the next promotional hierarchy, as decided in Raj Pal case by the Hon'ble Chandigarh Bench and confirmed by the jurisdictional High Court. He further submitted that the case of the applicants herein was decided based on the order of the Hon'ble Principal Bench of this Tribunal in OA No. 4101/2012, which was in turn based on its earlier order in OA No. 818/2000 (F.C. Jain vs. Union of India), as upheld by the Hon'ble High Court of Delhi in CWP No.4664/2001 and the SLP (Civil) No.289/2003 was also dismissed by the Hon'ble Supreme Court. Learned counsel further submitted that the FC Jain case has been distinguished by the Hon'ble Principal Bench in OA 4101/2012 by holding that the entitlement to higher scale of pay having regard to the policy decision adopted by the State and it has nothing to do with the ACP Scheme and

stands on different footing. He submitted that there is no reference to the orders passed in F.C. Jain case in the judgment of the Hon'ble Supreme Court. As such, both orders cannot be compared with each other.

Learned counsel further submitted that the applicants were granted the benefit pursuant to the order of the order of the Hon'ble High Court at Hyderabad passed in IA No. 1 of 2017 (Review WPMP No. 29239/2017) in WP No. 21348 of 2016 and the said benefit is sought to be cancelled under the impugned order. He also contended that there is no evidence to show that the jurisdictional High Courts referred to above have decided the cases against the applicants.

6. In view of the above contentions, we have gone through the orders of the Hon'ble High Court at Hyderabad and the Hon'ble Supreme Court cited supra. We extract the order passed by the Hon'ble High Court in Review Petition which reads as under:

“In that view of the matter, the review petition is allowed and the respondents herein are directed to abide by and implement the order passed by the Tribunal in OA No. 122 of 2015 forthwith on par with those covered by the order passed by the Allahabad Bench of the Tribunal. Such compliance would however be subject to the result of the challenge laid by the authorities to the orders passed by the Allahabad Bench of the Tribunal, the Principal Bench of the Tribunal at New Delhi and the Calcutta Bench of the Tribunal before the jurisdictional High Courts.”

Pursuant to the above order, the applicants were granted the benefit vide order dt. 11.09.2019 conditionally subject to the final outcome of the writ petition pending before the Hon'ble Allahabad High Court and the applicants also gave an undertaking to the said effect. Admittedly, final outcome of the writ petitions pending before the jurisdictional High Courts as referred above is still awaited. Even the respondents have not stated anything about the pending writ petitions in

theirelaborate instructions filed before us. As seen from the judgment of the Hon'ble Supreme Court cited above, the batch of appeals were filed assailing the orders of various High Courts, upholding the decisions rendered by different Benches of Central Administrative Tribunal granting financial upgradation in the next promotional hierarchy by placing reliance upon Union of India vs. Raj Pal (CWP No. 19387/2011). In the said judgment of the Hon'ble Supreme Court, there is no reference to the F.C. Jain case, as contended by the applicants.

After hearing both the sides, since the matter has been contested in superior judicial forums and the verdict of the Hon'ble High Court at Allahabad is yet to be delivered, learned counsel for the applicants has brought out that the judgement of the Hon'ble Apex Court is not applicable to the present case for the reasons given in the above paragraphs.

7. In view of the above, we dispose of this Original Application, by directing the respondents to grant relief to the applicants based on the judgement of the Hon'ble High Court at Allahabad, as and when it will be delivered. Till that time, no recovery shall be made from the salary/ pension of the applicants. The applicants are also advised to exhaust remedies after the verdict is delivered by the Hon'ble High Court at Allahabad.

With the above direction, the O.A. is disposed of. No order as to costs.

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

**(ASHISH KALIA)
JUDL. MEMBER**

/pv/