

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

This is the **02nd** day of August **2021**

THIRD JUDGE REFERENCE

(Under Section 26 of Administrative Tribunals Act., 1985)

**ORIGINAL APPLICATION NO. 330/1534/2010
WITH
ORIGINAL APPLICATION NO. 330/1934/2010**

HON'BLE MRS. JUSTICE VIJAY LAKSHMI, MEMBER (JUDICIAL)

ORIGINAL APPLICATION NO. 330/1534/2010

1. Ram Shankar Vishwakarma aged about 49 years, Son of late Ram Swaroop Vishwakarma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T.No. 629/T-1.
2. Vinod Kumar Singh Kushwaha, Son of Shri Raja Ram Kushwaha, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1996/T-2.
3. Jagjiwan Lal, Son of late Brahma Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2087/T-2.
4. Amnewal Robert, Son of late Robert Prasad, Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1415/T-1.
5. Dinesh Chandra Prajapati, Son of Shri Ram Lal, Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1411/T-1.
6. S.K. Srivastava, Son of late Gurudev Prasad Srivastava, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T. No. 268/T-3.

7. Raj Kumar Yadav, Son of Shri Shyam Lal Yadav, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 142/T-3.
8. Ramesh Chand, Son of late Laloo Prasad Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2097/T-2.
9. Kamlesh Kumar Yadav, Son of Shri Ram Pyare Yadav, employed as Tailor (High Skilled) in Ordnance Equipment Factory, Kanpur under 2094/T-2.
10. Ram Kumar Sharma, Son of Late Ram Krishna Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 267/T-3.
11. S.K. Kureel, Son of Shri Chandra Pal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1526/T-2.
12. Shahid Jaman Khan, Son of late Rahmet Ullah Khan, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1517/T-2.
13. Devendra Kumar, son of late Ram Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2071/T-2.
14. Sobran Singh Yadav, son of Shri Man Singh Yadav employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1525/T-2.
15. A.K. Tripathi, son of Shri Brhma Dutt Tripathi employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2104/T-2.
16. Ganpati, son of late Devi Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2079/T-2.

17. Ganesh Shankar, son of Shri Karna Shanker, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2078/T-2.
18. R.K. Srivastava, S/o late Deen Dayal Srivastava employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 745/T-1.
19. Dilip Kumar, S/o late Daya Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1399/T-1.
20. Arun Kumar Mishra, S/o Sri Akhilesh Chandra employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 705/T-1.
21. D.K. Tripathi, son of late Shambhoo Narain Tripathi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1993/T-2.
22. S.K. Tandon, son of late Triloki Nath Tandon, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2112/T-2.
23. Kishan Lal, son of Shri Ram Narain, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2090/T-2.
24. Ved Prakash Bajpai, son of late Prabhu Dayal Bajpai, employed as Tailor (High Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1522/T-2.
25. Ramesh Kumar, son of Shri Murli Manohar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 170/T-2.
26. Farid Ahmad, son of late Maqbool Ahmad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1204/T-1.

27. Dina Nath Singh Yadav, Son of Shri Bali Ram Yadav, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1436/T-1.
28. R.K. Sahu, son of late B.L. Sahu, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1510/T-2.
29. Devendra Singh, son of Shri Brij Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1410/T-1.
30. Jai Prakash Singh son of Jugal Pd. Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1416/T-1.
31. Ajai Kumar son of late Suraj Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1370/T-1.
32. Sheetal Sahai Saroj, S/o Shri Badri Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1521/T-2.
33. R.K. Paul, S/o late Mathura Prasad Paul, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 198/T-3.
34. D.K. Tripathi, son of Shri Shiv Kumar Tewari, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 180/T-3.
35. Fenial Lyal, son of late H. Lyoal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2076/T-2.
36. R.K. Pandey son of late Krishna Kumar Pandey employed as Highly Skilled in Ordnance Equipment Factory Kanpur under T. No. 1202/T-1.

37. Jagdish Pal, son of late Kalloo Pal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2084/T-2.
38. Manoj Kumar Mishra, Son of late Chandr Dev Mishra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 149/T-3.
39. D.K. Saxena, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1396/T-1.
40. Achal Behari Malhotra, s/o late Shiv Behari Malhotra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2063/T-2.
41. Beer Bhan Pratap Singh, S/o Shri Bharat Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2107/T-2.
42. Rajendra Prasad Gupta, S/o Late Jagdeo Prasad Gupta, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1513/T-2.
43. Awadhesh Kumar son of late Gulab Das, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2103/T-2.
44. S.K. Awasthi, son of Shri Sukhdeo Pd. Awasthi employed as (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 218/T-3.
45. Bhesh Raj, son of late Kanhaiya Lal, Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1434/T-1.
46. Sunil Kumar Singh, son of late Ram Lal Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 168/T-3.

47. Rakesh Shivhare, S/o late Raj Kumar Shivhare, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1514/T-2.
48. D.C. Pandey, son of late Ram Kewal Pandey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T.No. 185/T-3.
49. Deep Chandra Ram, son of Ram Kishun, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2074/T-2.
50. Awadhesh Kumar Pandey, son of late Jagdish Pandey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1390/T-1.
51. P.K. Srivastava, son of late Shamboo Nath Srivastava, employed as Tailor (High Skilled0 in Ordnance Equipment Factory Kanpur under T. No. 2098/T-2.
52. Shiv Nath Sharma, Son of Shri Kanhia Lal Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 186/T-3.
53. Upendra Awasthi, son of Shri Hari Kishore Awasthi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2110/T-2.
54. Ajai Pal, Son of late Lal Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1374/T-1.
55. Jagroop Kamal, son of Shri Ganga Ram, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T.No. 2083/T-2.
56. Ashok Kumar, son of late Shiv Pujan employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1378/T-1.

57. Ashok Kumar son of late Ram Swaroop employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1373/T-1.
58. Ashok Kumar Son of late Ram Bharose, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1427/T-1.
59. Jwala Prasad, son of late Ram Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1527/T-2.
60. Bhagwat Singh son of Shri Bhagirath employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1380/T-1.
61. Sanjai Kumar Tripathi, son of Shri Om Prakash Tripathi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1516/T-2.
62. M.S. Bajpai, son of Shri Pawan Kumar Bajpai, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2086/T-2.
63. Vishwajeet Pal, son of Shri R.D. Pal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1530/T-2.
64. Arun Kumar Bajpai, son of late Devi Sahai Bajpai, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1376/T-1.
65. Dilip Kumar, son of late Pratap Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. no. 1404/T-1.
66. Anant Ram, son of late Heera Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1377/T-1.

67. Kunwar Pal, son of late Ram Pyare Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1386/T-1.
68. S.K. Kanaujia, son of late Moti Lal Kanaujia employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1931/T-2.
69. Indresh Kumar, son of late Gore Lal Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. no. 149/TCS.
70. Diwakar Mishra, son of Shri Ram Nagina Mishra employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1933/T-2.
71. Ram Ji Pandey, son late Radha Krishna Pandey employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1339/T-1.
72. Smt. Narayani Devi employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 329/T-1.
73. Shiv Kumar Gupta, son of late Banshi Lal, employed as Examinor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 182/QC.
74. Adil Ahmed, son of late Jalil Ahmed employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 180/QC.
75. Dilip Kumar Agrawal, son of Shri Moti Lal Agarwal, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 183/QC.
76. Ram Kumar, son of Shri Babu Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2139/T-2.

77. Khuman son of late Laloo, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T No. 188/QC.
78. Ashok Kumar Pandey, son of late Jagdamba Prasad Pandey, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1473/T-1.
79. P.K. Dixit, son of Shri D.K. Dixit, employed as Line Mistry, in Ordnance Equipment Factory Kanpur, under T. No. 539/MM.
80. Ratnakar Man Singh, son of Lukman Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 628/T-1.
81. Anand Kumar son of late Bipat, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2152/T-2.
82. Ajai Singh, son of late Ram Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2120/T-2.
83. Feroz Wiliam, son of late Shree William employed as Tailor (Highly Skilled) under T. No. 1452/T-1, in O.E.F. Kanpur.
84. Anoop Kumar, son of late Manoo Lal Rawat, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2121/T-2.
85. Awadhesh Kumar Shukla, son of late Satya Dhar Shukla, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 178/T-3.
86. Vinod Kumar Awasthi, Son of late Shanker Lal Awasthi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1456/T-1.
87. Sant Prakash son of Shri Ram Dulare, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 646/T-1.

88. Ram Gopal Gupta, son of late Suraj Deen Gupta, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2119/T-2.
89. Prabhu Nath, son of Shri Babu Ram Yadav, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 129/T-3.
90. Anwar Beg, son of late Ibrahim Beg, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2174/T-2.
91. Prabhakar Mishra, son of Ram Shanker Misra employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1477/T-1.
92. Satish Kumar Sharma, S/o late Shyam Behari Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 261/T-3.
93. Shiv Narain, son of Shri Bindeshwari Prasad Shukla, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2144/T-2.
94. Chandra Shekhar Misra, S/o Shri Jaggi Miara employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1533/T-2.
95. Rajnish Kumar Verma son of Shri Hanuman Prasad Verma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2557/T-1.
96. Ashok Kumar Singh, son of Ram Autar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1815/T-1.
97. Sarfaraj Ahmed, son of Shri Izhar Ahmed, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 366/T-1.

98. Ambarish Kumar Srivastava, son of Shri Harish Chandra Srivastava, employed as Tailor (Highly Skilled) in O.E.F. Kanpur under T. No. 631/T-1.
99. Ramanuj Shukla, son of late Baij Nath Shukla, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1467/T-1
100. Ram Swarup son of late Badloo Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2146/T-2.
101. Shamsuddin son of Sana Ullah, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2136/T-2.
102. Ramesh Chandra, son of late Shiv Bux, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 195/T-3.
103. Munesh Singh son of late Bhagwan Deen employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 28/T-3.
104. Shiv Prakash, son of late Bhagwan Deen, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2275/T-1.
105. Zaved Anwar son of Mohd. Zaheer, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 260/T-3.
106. Girish Chandra Mishra, son of late Bhagwat Prasad Mishra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 639/T-1.
107. Lal Babu Singh, son of late Khakhan Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1478/T-1.

108. Sanjeev Kumar Srivastava, son of late Radhe Shyam, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1818/T-1.
109. Awadhesh Kumar Shukla, son of Shri Shiv Nath Shukla, employed as Tailor (High Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1542/T-2.
110. Sushil Kumar Bajpai, son of Shri Mool Chandra Bajpai, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 338/T-1.
111. Ram Kumar, son of Shri Kishori Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 630/T-1.
112. Nek Ram, son of late Baleshwar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 136/T-3.
113. Ram Babu, son of late Shiv Lal employed as Tailor (Highly Skilled) in Ord. Equipment Fy. Kanpur under T. No. 2118/T-2.
114. Ramesh Chandra son of late Kanhaiya Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 616/T-1.
115. Siya Ram, son of Shri Mangali Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2115/T-2.
116. Devi Charan, son of Shri Lal Ram, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 618/T-1.
117. Gyan Chandra Pasi, son of late Munna Lal Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1482/T-1.
118. Vinod Kumar son of Shri Pitambar Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1539/T-2.

119. Rakesh Babu, son of Shri Ghanshyam, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1982/T-2.
120. Shiv Swaroop, son of late Lakshmi Narain Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. N. 1493/T-1.
121. Awadhesh Kumar, son of late Karunesh Kumar Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1512/T-1.
122. Arun Kumar, son of Shri Chhakki Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 120/T-3.
123. Ram Shanker Yadav, son of Shri Mohar Singh employed as Fitter (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No 201/MF.
124. Sahdeo Lal, son of late Tulsi Das, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1535/T-2.
125. Raman son of late Ram Narain Tewari, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1816/T-1.
126. Ashok Kumar Pandey, son of late Ambika Prasad Pandey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1447/T-1.
127. Rakesh Kumar Tripathi, son of Shri Ram Autar Tripathi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1538/T-2.
128. Mohd. Sharif Sheikh, son of Shri Mohd. Aslam employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 133/T-3.

129. Rajesh Kumar, son of Shri Ram Narain employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1537/T-2.
130. Radhe Shyam, son of late Durga Prasad employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 263/T-3.
131. Ramesh Kumar Kureel, son of late Sukh Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 197/T-3.
132. Anil Kumar Sonkar, son of Babu Lal Sonker employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 102/T-3.
133. Vijay Kumar Nigam, son of Shri Sita Ram Nigam employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 643/T-1.
134. Shree Krishna Omar, son of late Heera Lal Omar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1545/T-2.
135. Virendra Kumar Saini, son of late Chunni Lal Saini, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 18/T-3.
136. Bhupendra Kishore, son of Shri Rajendra Kishore Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1547/T-2.
137. Sushil Kumar, son of Shri Jamuna Prasad Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 166/TCS
138. Badri Prasad, son of Shri Ram Deen employed as Examiner (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1310/T-1.

139. Suresh Chandra, son of late Raja Ram employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1311/T-1.
140. B.K. Pandey, son of late Gopi Nath Pandey employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 12/T-3.
- 141 Jitendra Kumar Saxena, S/o late Ram Chandra Saxena, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2123/T-2.
142. Dinesh Singh Sengar, son of late Rajendr Bahadur Singh Sengar, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T. No. 178/QC.
143. Dinesh Kumar Singh, Son of Shri Shunker Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 138/T-3.
144. R.C. Sharma, son of late Shambhoo Dayal employed as Tailor (Highly Skilled) in Ord. Equipment Factory Kanpur under T. No. 1512/T-2.
145. Brijesh Kumar Yadav, son of late Surya Bali employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 647/T-1.
146. Komal Singh, son of Shri Natthoo Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2274/T-1.
147. Chandra Shekhar, son of late Murli Dhar employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1164/T-2.
148. Sanjay Kumar Dubey, son of Shri Keshav Narain Dubey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T. No. 2355/T-1.

149. Pramod Kumar Gupta, son of Shri Ram Khilawan Gupta, employed as Line Mistry (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 716/MM (Tex).
150. Vishwa Mohan Dwivedi, son of Shree Kant Dubey, employed as Line Mistry (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 718/MM (Tex).
151. Rajendra Kumar Srivastava, son of late Genda Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2279/T-1.
152. Ghulam Sadique son of Mohd. Yaqoob, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 44/QC.
153. Sanjay Kumar Nigam, son of Shri Fateh Bahadur Nigam, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T.No. 1903/T-1.
154. Akhil Kumar Tewari, son of Shri Dulare Prasad Tewari, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2277/T-1.
155. Radha Govind Mishra, son of late Prem Sagar Mishra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T.No. 329/T-1.
156. D.K. Srivastava, son of Shri Ram Autar Srivastava, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1503/T-2.
157. Mohd. Rahbar Alam, son of Mohd. Yaseen employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1330/T-1.
158. Vinod Kumar, son of Shri Dhani Ram Kushwaha, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1135/T-2.

159. Anil Kishor Gupta, son of late Siddha Goptal Gupta, employed as U.D.C. in Ordnance Equipment Factory, Kanpur, under P No. 052256.
160. A.K. Dwivedi, son of Shri V.P. Dwivedi, employed as U.D.C. in Ordnance Equipment Factory, Kanpur under P No. 052259.
161. A.K. Kushwaha, son of late Ayodhya Prasad Kushwaha, employed as U.D.C. in Ordnance Equipment Factory, Kanpur, under P No. 052157.
162. A.K. Awasthi, son of late Raj Kishor Awasthi employed as Supervisor in Ordnance Equipment Factory, Kanpur under P. No. 070194.
163. A.K. Bajpai, son of Shri J.K. Bajpai, employed as U.D.C. in Ordnance Equipment Factory, Kanpur under P. No. 052257.
164. Smt. Rajinder Kaur, employed as U.D.C. in Ordnance Equipment Factory, Kanpur under P No. 052178.

.....Applicants.

VERSUS

1. The Union of India, through the Secretary, Ministry of Defence, Deptt. Of Defence Production & Supply, New Delhi- II.
2. The Secretary, Ordnance Factory Board, Ministry of Defence, Govt of India, 10-A, S.K. Bose Road, Kolkata-1
3. The General Manager, Ordnance Equipment Factory, Ministry of Defence, Govt of India, Kanpur.

.....Respondents

ORIGINAL APPLICATION NO. 330/1934/2010

1. Ram Shankar Vishwakarma aged about 49 years, Son of late Ram Swaroop Vishwakarma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T.No. 629/T-1.

2. Vinod Kumar Singh Kushwaha, Son of Shri Raja Ram Kushwaha, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1996/T-2.
3. Jagjiwan Lal, Son of late Brahma Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2087/T-2.
4. Amnewal Robert, Son of late Robert Prasad, Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1415/T-1.
5. Dinesh Chandra Prajapati, Son of Shri Ram Lal, Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1411/T-1.
6. S.K. Srivastava, Son of late Gurudev Prasad Srivastava, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T. No. 268/T-3.
7. Raj Kumar Yadav, Son of Shri Shyam Lal Yadav, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 142/T-3.
8. Ramesh Chand, Son of late Laloo Prasad Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2097/T-2.
9. Kamlesh Kumar Yadav, Son of Shri Ram Pyare Yadav, employed as Tailor (High Skilled) in Ordnance Equipment Factory, Kanpur under 2094/T-2.
10. Ram Kumar Sharma, Son of Late Ram Krishna Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 267/T-3.
11. S.K. Kureel, Son of Shri Chandra Pal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1526/T-2.

12. Shahid Jaman Khan, Son of late Rahmet Ullah Khan, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1517/T-2.
13. Devendra Kumar, son of late Ram Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2071/T-2.
14. Sobran Singh Yadav, son of Shri Man Singh Yadav employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1525/T-2.
15. A.K. Tripathi, son of Shri Brhma Dutt Tripathi employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2104/T-2.
16. Ganpati, son of late Devi Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2079/T-2.
17. Ganesh Shankar, son of Shri Karna Shanker, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2078/T-2.
18. R.K. Srivastava, S/o late Deen Dayal Srivastava employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 745/T-1.
19. Dilip Kumar, S/o late Daya Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1399/T-1.
20. Arun Kumar Mishra, S/o Sri Akhilesh Chandra employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 705/T-1.
21. D.K. Tripathi, son of late Shambhoo Narain Tripathi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1993/T-2.

22. S.K. Tandon, son of late Triloki Nath Tandon, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2112/T-2.
23. Kishan Lal, son of Shri Ram Narain, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2090/T-2.
24. Ved Prakash Bajpai, son of late Prabhu Dayal Bajpai, employed as Tailor (High Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1522/T-2.
25. Ramesh Kumar, son of Shri Murli Manohar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 170/T-2.
26. Farid Ahmad, son of late Maqbool Ahmad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1204/T-1.
27. Dina Nath Singh Yadav, Son of Shri Bali Ram Yadav, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1436/T-1.
28. R.K. Sahu, son of late B.L. Sahu, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1510/T-2.
29. Devendra Singh, son of Shri Brij Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1410/T-1.
30. Jai Prakash Singh son of Jugal Pd. Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1416/T-1.
31. Ajai Kumar son of late Suraj Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1370/T-1.

32. Sheetal Sahai Saroj, S/o Shri Badri Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1521/T-2.
33. R.K. Paul, S/o late Mathura Prasad Paul, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 198/T-3.
34. D.K. Tripathi, son of Shri Shiv Kumar Tewari, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 180/T-3.
35. Fenial Lyal, son of late H. Lyoal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2076/T-2.
36. R.K. Pandey son of late Krishna Kumar Pandey employed as Highly Skilled in Ordnance Equipment Factory Kanpur under T. No. 1202/T-1.
37. Jagdish Pal, son of late Kalloo Pal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2084/T-2.
38. Manoj Kumar Mishra, Son of late Chandr Dev Mishra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 149/T-3.
39. D.K. Saxena, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1396/T-1.
40. Achal Behari Malhotra, s/o late Shiv Behari Malhotra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2063/T-2.
41. Beer Bhan Pratap Singh, S/o Shri Bharat Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2107/T-2.

42. Rajendra Prasad Gupta, S/o Late Jagdeo Prasad Gupta, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1513/T-2.
43. Awadhesh Kumar son of late Gulab Das, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2103/T-2.
44. S.K. Awasthi, son of Shri Sukhdeo Pd. Awasthi employed as (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 218/T-3.
45. Bhesh Raj, son of late Kanhaiya Lal, Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1434/T-1.
46. Sunil Kumar Singh, son of late Ram Lal Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 168/T-3.
47. Rakesh Shihhare, S/o late Raj Kumar Shihhare, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1514/T-2.
48. D.C. Pandey, son of late Ram Kewal Pandey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T.No. 185/T-3.
49. Deep Chandra Ram, son of Ram Kishun, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2074/T-2.
50. Awadhesh Kumar Pandey, son of late Jagdish Pandey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1390/T-1.
51. P.K. Srivastava, son of late Shamboo Nath Srivastava, employed as Tailor (High Skilled0 in Ordnance Equipment Factory Kanpur under T. No. 2098/T-2.

52. Shiv Nath Sharma, Son of Shri Kanhia Lal Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 186/T-3.
53. Upendra Awasthi, son of Shri Hari Kishore Awasthi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2110/T-2.
54. Ajai Pal, Son of late Lal Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1374/T-1.
55. Jagroop Kamal, son of Shri Ganga Ram, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T.No. 2083/T-2.
56. Ashok Kumar, son of late Shiv Pujan employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1378/T-1.
57. Ashok Kumar son of late Ram Swaroop employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1373/T-1.
58. Ashok Kumar Son of late Ram Bharose, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1427/T-1.
59. Jwala Prasad, son of late Ram Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1527/T-2.
60. Bhagwat Singh son of Shri Bhagirath employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1380/T-1.
61. Sanjai Kumar Tripathi, son of Shri Om Prakash Tripathi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1516/T-2.

62. M.S. Bajpai, son of Shri Pawan Kumar Bajpai, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2086/T-2.
63. Vishwajeet Pal, son of Shri R.D. Pal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1530/T-2.
64. Arun Kumar Bajpai, son of late Devi Sahai Bajpai, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1376/T-1.
65. Dilip Kumar, son of late Pratap Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. no. 1404/T-1.
66. Anant Ram, son of late Heera Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1377/T-1.
67. Kunwar Pal, son of late Ram Pyare Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1386/T-1.
68. S.K. Kanaujia, son of late Moti Lal Kanaujia employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1931/T-2.
69. Indresh Kumar, son of late Gore Lal Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. no. 149/TCS.
70. Diwakar Mishra, son of Shri Ram Nagina Mishra employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1933/T-2.
71. Ram Ji Pandey, son late Radha Krishna Pandey employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1339/T-1.

72. Smt. Narayani Devi employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 329/T-1.
73. Shiv Kumar Gupta, son of late Banshi Lal, employed as Examinor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 182/QC.
74. Adil Ahmed, son of late Jalil Ahmed employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 180/QC.
75. Dilip Kumar Agrawal, son of Shri Moti Lal Agarwal, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 183/QC.
76. Ram Kumar, son of Shri Babu Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2139/T-2.
77. Khuman son of late Laloo, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 188/QC.
78. Ashok Kumar Pandey, son of late Jagdamba Prasad Pandey, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1473/T-1.
79. P.K. Dixit, son of Shri D.K. Dixit, employed as Line Mistry, in Ordnance Equipment Factory Kanpur, under T. No. 539/MM.
80. Ratnakar Man Singh, son of Lukman Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 628/T-1.
81. Anand Kumar son of late Bipat, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2152/T-2.
82. Ajai Singh, son of late Ram Singh, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 2120/T-2.

83. Feroz Wiliam, son of late Shree William employed as Tailor (Highly Skilled) under T. No. 1452/T-1, in O.E.F. Kanpur.
84. Anoop Kumar, son of late Manoo Lal Rawat, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2121/T-2.
85. Awadhesh Kumar Shukla, son of late Satya Dhar Shukla, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 178/T-3.
86. Vinod Kumar Awasthi, Son of late Shanker Lal Awasthi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1456/T-1.
87. Sant Prakash son of Shri Ram Dulare, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 646/T-1.
88. Ram Gopal Gupta, son of late Suraj Deen Gupta, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2119/T-2.
89. Prabhu Nath, son of Shri Babu Ram Yadav, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 129/T-3.
90. Anwar Beg, son of late Ibrahim Beg, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2174/T-2.
91. Prabhakar Mishra, son Iae Ram Shanker Misra employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1477/T-1.
92. Satish Kumar Sharma, S/o late Shyam Behari Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 261/T-3.

93. Shiv Narain, son of Shri Bindeshwari Prasad Shukla, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2144/T-2.
94. Chandra Shekhar Misra, S/o Shri Jaggi Miara employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1533/T-2.
95. Rajnish Kumar Verma son of Shri Hanuman Prasad Verma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2557/T-1.
96. Ashok Kumar Singh, son of Ram Autar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1815/T-1.
97. Sarfaraj Ahmed, son of Shri Izhar Ahmed, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 366/T-1.
98. Ambarish Kumar Srivastava, son of Shri Harish Chandra Srivastava, employed as Tailor (Highly Skilled) in O.E.F. Kanpur under T. No. 631/T-1.
99. Ramanuj Shukla, son of late Baij Nath Shukla, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1467/T-1.
100. Ram Swarup son of late Badloo Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2146/T-2.
101. Shamsuddin son of Sana Ullah, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2136/T-2.
102. Ramesh Chandra, son of late Shiv Bux, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 195/T-3.

- 103 Munesh Singh son of late Bhagwan Deen employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 28/T-3.
104. Shiv Prakash, son of late Bhagwan Deen, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2275/T-1.
105. Zaved Anwar son of Mohd. Zaheer, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 260/T-3.
106. Girish Chandra Mishra, son of late Bhagwat Prasad Mishra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 639/T-1.
107. Lal Babu Singh, son of late Khakhan Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1478/T-1.
108. Sanjeev Kumar Srivastava, son of late Radhe Shyam, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1818/T-1.
109. Awadhesh Kumar Shukla, son of Shri Shiv Nath Shukla, employed as Tailor (High Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1542/T-2.
110. Sushil Kumar Bajpai, son of Shri Mool Chandra Bajpai, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 338/T-1.
111. Ram Kumar, son of Shri Kishori Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 630/T-1.
112. Nek Ram, son of late Baleshwar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 136/T-3.

113. Ram Babu, son of late Shiv Lal employed as Tailor (Highly Skilled) in Ord. Equipment Fy. Kanpur under T. No. 2118/T-2.
114. Ramesh Chandra son of late Kanhaiya Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 616/T-1.
115. Siya Ram, son of Shri Mangali Prasad, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 2115/T-2.
116. Devi Charan, son of Shri Lal Ram, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 618/T-1.
117. Gyan Chandra Pasi, son of late Munna Lal Employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1482/T-1.
118. Vinod Kumar son of Shri Pitambar Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1539/T-2.
119. Rakesh Babu, son of Shri Ghanshyam, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1982/T-2.
120. Shiv Swaroop, son of late Lakshmi Narain Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. N. 1493/T-1.
121. Awadhesh Kumar, son of late Karunesh Kumar Sharma, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1512/T-1.
122. Arun Kumar, son of Shri Chhakki Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 120/T-3.
123. Ram Shanker Yadav, son of Shri Mohar Singh employed as Fitter (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No 201/MF.

124. Sahdeo Lal, son of late Tulsi Das, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1535/T-2.
125. Raman son of late Ram Narain Tewari, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1816/T-1.
126. Ashok Kumar Pandey, son of late Ambika Prasad Pandey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1447/T-1.
127. Rakesh Kumar Tripathi, son of Shri Ram Autar Tripathi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1538/T-2.
128. Mohd. Sharif Sheikh, son of Shri Mohd. Aslam employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 133/T-3.
129. Rajesh Kumar, son of Shri Ram Narain employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1537/T-2.
130. Radhe Shyam, son of late Durga Prasad employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 263/T-3.
131. Ramesh Kumar Kureel, son of late Sukh Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 197/T-3.
132. Anil Kumar Sonkar, son of Babu Lal Sonker employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 102/T-3.
133. Vijay Kumar Nigam, son of Shri Sita Ram Nigam employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 643/T-1.

134. Shree Krishna Omar, son of late Heera Lal Omar, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1545/T-2.
135. Virendra Kumar Saini, son of late Chunni Lal Saini, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 18/T-3.
136. Bhupendra Kishore, son of Shri Rajendra Kishore Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1547/T-2.
137. Sushil Kumar, son of Shri Jamuna Prasad Dwivedi, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 166/TCS
138. Badri Prasad, son of Shri Ram Deen employed as Examiner (Highly Skilled) in Ordnance Equipment Factory Kanpur under T. No. 1310/T-1.
139. Suresh Chandra, son of late Raja Ram employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1311/T-1.
140. B.K. Pandey, son of late Gopi Nath Pandey employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 12/T-3.
141. Jitendra Kumar Saxena, S/o late Ram Chandra Saxena, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2123/T-2.
142. Dinesh Singh Sengar, son of late Rajendr Bahadur Singh Sengar, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T. No. 178/QC.
143. Dinesh Kumar Singh, Son of Shri Shunker Lal employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 138/T-3.

144. R.C. Sharma, son of late Shambhoo Dayal employed as Tailor (Highly Skilled) in Ord. Equipment Factory Kanpur under T. No. 1512/T-2.
145. Brijesh Kumar Yadav, son of late Surya Bali employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 647/T-1.
146. Komal Singh, son of Shri Natthoo Singh employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2274/T-1.
147. Chandra Shekhar, son of late Murli Dhar employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1164/T-2.
148. Sanjay Kumar Dubey, son of Shri Keshav Narain Dubey, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T. No. 2355/T-1.
149. Pramod Kumar Gupta, son of Shri Ram Khilawan Gupta, employed as Line Mistry (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 716/MM (Tex).
150. Vishwa Mohan Dwivedi, son of Shree Kant Dubey, employed as Line Mistry (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 718/MM (Tex).
151. Rajendra Kumar Srivastava, son of late Genda Lal, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2279/T-1.
152. Ghulam Sadique son of Mohd. Yaqoob, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 44/QC.
153. Sanjay Kumar Nigam, son of Shri Fateh Bahadur Nigam, employed as Examiner (Highly Skilled) in Ordnance Equipment Factory Kanpur, under T.No. 1903/T-1.

154. Akhil Kumar Tewari, son of Shri Dulare Prasad Tewari, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 2277/T-1.
155. Radha Govind Mishra, son of late Prem Sagar Mishra, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T.No. 329/T-1.
156. D.K. Srivastava, son of Shri Ram Autar Srivastava, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1503/T-2.
157. Mohd. Rahbar Alam, son of Mohd. Yaseen employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur, under T. No. 1330/T-1.
158. Vinod Kumar, son of Shri Dhani Ram Kushwaha, employed as Tailor (Highly Skilled) in Ordnance Equipment Factory, Kanpur under T. No. 1135/T-2.
159. Anil Kishor Gupta, son of late Siddha Goptal Gupta, employed as U.D.C. in Ordnance Equipment Factory, Kanpur, under P No. 052256.
160. A.K. Dwivedi, son of Shri V.P. Dwivedi, employed as U.D.C. in Ordnance Equipment Factory, Kanpur under P No. 052259.
161. A.K. Kushwaha, son of late Ayodhya Prasad Kushwaha, employed as U.D.C. in Ordnance Equipment Factory, Kanpur, under P No. 052157.
162. A.K. Awasthi, son of late Raj Kishor Awasthi employed as Supervisor in Ordnance Equipment Factory, Kanpur under P. No. 070194.
163. A.K. Bajpai, son of Shri J.K. Bajpai, employed as U.D.C. in Ordnance Equipment Factory, Kanpur under P. No. 052257.
164. Smt. Rajinder Kaur, employed as U.D.C. in Ordnance Equipment Factory, Kanpur under P No. 052178.

.....Applicants.

VERSUS

1. The Union of India, through the Secretary, Ministry of Defence, Deptt. Of Defence Production & Supply, New Delhi- 11.
2. The Secretary, Deptt of Personnel & Training, Ministry of Personnel Public Grievance and Pensions, Govt. of India, North Block, New Delhi-11.
3. The Secretary, Ordnance Factory Board, Ministry of Defence, Govt of India, 10-A, S.K. Bose Road, Kolkata-1.
4. The General Manager, Ordnance Equipment Factory, Ministry of Defence, Govt of India, Kanpur. Respondents

Advocate for the Applicants : Shri V.N. Pandey holding brief of
Shri A.N. Ambusta

Advocate for the Respondents : Shri Dharmendra Tiwari holding
brief of Shri N P Shukla

ORDER

1. The instant matter is a Third Judge Reference under Section 26 of Administrative Tribunal Act 1985.

While deciding the aforesaid two connected OAs No. 1534 of 2010 and 1934 of 2010, a difference of opinion arose between the two Members, sitting in Division Bench of Central Administrative Tribunal, Allahabad, Hon'ble Mr. Rakesh Sagar Jain, Member (Judicial) allowed both the OAs, whereas Hon'ble Member (Administrative) Ms. Ajanta Dayalan, dismissed both the OAs. Both Members have given their independent reasoning for taking the different views.

2. In absence of concurrence, the judgment could not be finalized and draft judgments were kept in sealed cover. The matter was

referred to Principal Bench of CAT for placing it before Hon'ble Chairman to nominate a third Member for hearing on such points on which the difference of opinion arose between the Division Bench.

3. Vide order dated 21.12.2020, the Hon'ble Chairman was pleased to nominate the undersigned as third Member to hear the above cases.

4. I have heard learned counsel for the parties, both of whom are present in court. Shri V.N. Pandey holding brief of Shri A.N. Ambasta has appeared for the applicants and Shri Dharmendra Tiwari holding brief of Shri N.P. Shukla has appeared on behalf of the respondents. Perused the record.

5. At the very outset, it is pertinent to mention that both these OAs have been filed by as many as 186 applicants, who are the same in both the OAs. At the time till conflicting judgments by Hon'ble Members was passed, the number of the applicants was intact, however, before the hearing of Third Judge Reference, a Misc. Withdrawal Applications dated 6.4.2021, was filed by 22 applicants, seeking permission to withdraw their names from both the OAs, so that they may avail the benefit under MACP scheme from 1.9.2008, which was a pre-condition laid by the respondent department before granting such benefit of MACP.

6. In view of the fact that the matter pertains to Division Bench, the Withdrawal Application was heard on previous date by Division Bench comprising of undersigned and Hon'ble Shri Tarun Shridhar, Member (A). As learned counsel for the respondents had no objection on

withdrawal applications, it was allowed and the names of 22 applicants from the array of parties were deleted by learned counsel for the applicants.

7. Before advertiring to the point of controversy, due to which conflicting judgments were passed by both the Hon'ble Members, it is necessary to throw a glance on the background facts in brief, which may be summarised as under :-

8. All the applicants, except serial Nos. 181 to 186 were holding the post of Tailor/Examiner and Line Mistry in the respondents department (Ordnance Equipment Factory, Kanpur) and all of them were getting the pay scale of Rs.5200-20200 + Grade Pay of Rs. 2400/. Assured Career Progression Scheme (ACP) was introduced by Government of India w.e.f. 9.8.1999. In this scheme, on completion of 12 years and 24 years of service, the employees were granted financial upgradation, in case they were unable to get any promotion during this period. As all the applicants were stagnating and have not got any promotion during 24 years of their service, the respondents vide various factory orders, issued between December 2008 to April 2009 granted upgraded pay scale with Grade Pay of Rs. 4200/- to the applicants with effect from different dates (Annexure A-4), under ACP scheme. Under ACP scheme, an employee was entitled to get two promotions, first on completion 12 years of service and second on completion of 24 years of service and as per ACP scheme, the employee was entitled for financial upgradation in the Grade Pay of next level in the hierarchy of promotion. After 6th Central Pay Commission, the MACP scheme for financial upgradation of the employees who were suffering from

stagnation was enforced. The previous ACP scheme was withdrawn and superseded by MACP scheme w.e.f. 1.9.2008. Under the MACP scheme, the employees can claim only immediate next Grade Pay in the hierarchy of pay scale and not the corresponding Grade in promotional hierarchy. The controversy arose due to overlapping of both the schemes because the MACP scheme was introduced vide office memorandum dated 19.5.2009 but by giving it retrospective effect it was implemented since a back date w.e.f. 1.9.2008. As up to 19.5.2009, there was nothing like MACP scheme, several employees were granted benefits under ACP scheme thereby giving financial upgradation equal to the next promotional post in the hierarchy. When the MACP scheme was implemented with retrospective effect from 1.9.2008, the benefit granted to the employees under erstwhile ACP scheme, were withdrawn and the salary paid to the employees in the Grade Pay of next promotional hierarchy, being too excessive in comparison to financial upgradation under MACP scheme, which is only to the next level of Pay scale, the proceedings for recovery of the excess amount, paid to the employees were initiated.

The applicants in both these instant OAs are the employees, who, after completing 24 years of service, had been granted upgraded pay scale as per the provision of ACP scheme i.e. to the next promotional hierarchy, between December 2008 to April 2009. However, as the benefits under erstwhile ACP scheme were granted to the applicants during the period when MACP scheme was deemed to be inforce by virtue of its retrospective effect from 1.9.2008, Therefore, vide impugned orders dated 27.7.20010 and 3.8.2010 (impugned in OA

1534/10) and dated 29.11.10.(impugned in OA 1934/10) the grade pay granted to them under ACP scheme, was cancelled and orders for recovery of excess amount paid to them was ordered.

All these orders were challenged by the applicants by means of both the abovementioned OAs. The grounds taken by the applicants for setting aside the impugned orders were that:-

- (i) *The impugned orders have been passed by the respondents, all of a sudden, without assigning any reason and without providing any opportunity of hearing to the applicants.*
- (ii) *The respondents have cancelled all the factory orders ,providing second ACP scheme benefit to the applicants, with retrospective effect.*
- (iii) *The withdrawal of ACP benefit involves huge recovery from the pay of the applicants as they all have already received the upgraded pay scale in the hierarchy of next promotional post, for more than 20 months.*
- (iv) *The applicants are not at fault and they have never misrepresented or played any mischief in getting the said amount, therefore, in wake of various judgments of Hon'ble Supreme Court, Hon'ble High Courts and various Benches of CAT, no recovery should be made from their pay.*
- (v) *Reduction of pay is one of the graded penalties under CCS (CCA) Rules, 1965 and cannot be imposed without a full-fledged enquiry, whereas no enquiry has been held against any of the applicants and no opportunity has been granted to them prior to reduction of their pay scale.*

Both ACP and MACP schemes are beneficial schemes. India being a social welfare State, the benefit under old scheme cannot be snatched away by a new scheme and that too with retrospective effect.

(vi) MACP scheme itself in its para 11 provides that past cases will not be opened. Hence, benefit of second ACP granted to the applicants earlier to issuance of MACP scheme, cannot be withdrawn.

In support of the aforesaid arguments, learned counsel for the applicant has placed reliance on following judgments:-

- (i) *Shiv Kumar Singh and 63 others Vs. Union of India and others decided on 13.2.2018 in OA No. 330/1231/2010 by CAT, Allahabad Bench, Allahabad.***
- (ii) *S. Soman Pillai and 6 others Vs. Union of India and others decided on 24.03.2015 in OA No. 252/2013 by CAT, Ernakulam Bench.***
- (iii) *P. No. 6965533 Amar Singh and 5 others Vs. Union of India and others decided on 23.02.2012 in OA No. 1003/PB/2011 by CAT, Chandigarh Bench.***
- (iv) *Kanti Prasad Tyagi Vs. D/o Electronics decided on 26.11.2019 in OA No. 4277 of 2014 by CAT, PB, New Delhi.***
- (v) *Shri Prakash Chand and seven others Vs. Union of India and others decided on 16.2.2005 in OA No. 557 of 2004 by Full Bench of CAT, PB, New Delhi.***
- (vi) *Delhi Urban Shelter Improvement Vs. Shashi Malik & Ors decided on 01.09.2016 in LPA No. 405/2016 by Hon'ble High Court of Delhi.***
- (vii) *The Union of India and 6 others Vs. S. Ranjit Samuel and 27 others decided on 14.02.2017 in Writ Petition Nos. 33946, 34602 and 27798 of 2014 by Hon'ble High Court of Madras.***
- (viii) *Mes No. 600051 Shri B.D Kadam and 14 others Vs. Union of India and others decided on 05.06.2017 in Writ Petition Nos. 24894-24908 of 2016 (S-CAT) by Hon'ble High Court of Karnataka***
- (ix) *Ex. Capt. K.C. Arora and another Vs. Ex. Capt. A.S. Parmar and others – AIR 1987 Supreme Court 1858.***

(x) ***Commissioner of Income Tax, Calcutta Vs. Dalhousie Properties Ltd. – AIR 1987 Supreme Court 1867".***

9. The respondents contested the claim of the applicants inter-alia on the following ground:-

1. *ACP scheme was introduced on the recommendations of 5th Central Pay Commission w.e.f. 9th August 1999. On the recommendation of 6th Central Pay Commission, another scheme, namely Modified Assured Career Progression Scheme (MACP) was introduced whereby the employees were given three financial upgradations on completion of 10, 20 and 30 years of continuous service in hierarchy of next level of pay scale as per revised Pay Band and not in the hierarchy of next promotional post as was given under ACP scheme.*
2. *The respondents contended that as there was no indication in the 6th Central Pay Commission report that old ACP scheme would stand ceased from 1.9.2008 and old ACP would not be afforded to any employee even after his becoming eligible for the same, the Factory continued to grant ACP benefits to their employees in accordance with the next promotional hierarchy, on completion of their 12 and 24 years of service under the ACP scheme.*
3. *It was further contended that all the applicants were granted second ACP benefit on completion of 24 years of service between 1.9.2008 to 18.5.2009.*
4. *The Government instructions were issued by DOPT on 19.05.2009 making MACP operational retrospectively from 1.9.2008. Had the DOPT instructions regarding grant of MACP,*

been made effective from actual date of its issuance i.e. 19.5.2009 and giving effect to it from the same date and not retrospectively from 1.9.2008, there would not have been any anomaly in the action taken by the Factory in granting old ACP in the promotional hierarchy to the applicants. All the applicants were granted financial upgradation from Grade Pay Rs. 2400/- to Grade Pay Rs. 4200/- because as per the provisions of ACP scheme, financial upgradation was allowed in the next promotional scale.

5. *The respondents further contended that as the MACP scheme has been made effective retrospectively from 1.9.2008 and all the applicants have by the time had already been granted ACP benefit between December 2008 to April 2009, the respondents department cancelled all the financial upgradations ordered beyond 1.9.2008.*
6. *It was further contended that in so far as para 11 of MACP scheme is concerned, which states that past cases would not be opened, as it created a doubt whether the cases of the applicants were to be treated as past cases, the matter was referred to Ordnance Factory Board vide Factory letter dated 17.8.2009 and the Principal Controller of Accounts (Factories) Kolkata clarified that as the MACP was made operational from 1.9.2008, all 300 odd cases of old ACP beyond this date are not in order. Accordingly, Account Office directed the office to cancel these orders granting ACP benefits to the applicants.*
7. *The learned counsel for the respondents has further contended that the reduction in Grade Pay is not a penalty under CCS*

(CCA) Rules. In fact there is no question of reduction of pay. It is only a case of correct fixation of pay and benefit of erstwhile ACP scheme has been withdrawn in view of implementation of MACP scheme. Moreover, the DOPT order of 19.5.2009 clearly stipulates that financial upgradation as per the provisions of earlier ACP scheme of August 1999 would be granted till 31st August 2008 only.

10. On the aforesaid grounds, learned counsel for the respondents contended that the applicants are not entitled for the benefit of ACP beyond 1.9.2008 and the impugned Factory orders cancelling these benefits granted after 1.9.2008, are in order and need no interference by this Tribunal.

11. It is noteworthy that when the applicants had approached this Tribunal by means of instant Original Applications, this Tribunal vide order dated 14.10.2010, had granted them interim relief, directing the respondents not to affect any recovery from the pay of applicants on account of alleged excess payment. In compliance of the aforesaid order, the recovery of excess payment made to the applicants was stayed and the Grade Pay of applicants continued to be Rs. 4200/- (in the Grade of next promotional hierarchy), as per the ACP scheme..

11. The matter was heard at length by the Division Bench comprising of Hon'ble Ms. Ajanta Dayalan, Member (A) and Hon'ble Mr. Rakesh Sagar Jain, Member (J). Hon'ble Ms. Ajanta Dayalan, Member (A) after taking into consideration the rival contentions of learned counsel for both the parties was of the view that the applicants are not entitled to any relief claimed by them and accordingly dismissed both the OAs,

whereas Hon'ble Member (J) Mr. Rakesh Sagar Jain allowed both the OAs and set aside the impugned orders passed by the respondents with the direction not to effect any recovery from the pay and allowance given under ACP scheme to the applicants.

12. The reasons given by Hon'ble Member (Administrative) for rejecting the claim of the applicants was that the MACP scheme which has been implemented in supersession of old ACP scheme, provides financial upgradation only in the hierarchy of next pay scale and not in the hierarchy of next promotional post, therefore the applicants are not entitled to financial upgradation under ACP scheme after the implementation of MACP scheme.

The relevant paragraphs of the judgment passed by Member (Administrative) is reproduced below:-

"17. However, when we see the contents of MACP Scheme, paragraph 3 of the Scheme notified by the DOP&T on 19.05.2009 (Annexure-2 to the Counter Affidavit) clearly states as follows : -

'3. This Scheme is in supersession of previous ACP Scheme and clarifications issued there under and shall be applicable to all regularly appointed Group "A", "B", and "C" Central Government Civilian Employees except officers of the Organised Group "A" Service. The status of Group "D" employees would cease on their completion of prescribed training, as recommended by the Sixth Central Pay Commission and would be treated as Group "C" employees.

18. As such, the MACP Scheme has been introduced in supersession of the ACP Scheme. There is no option with any individual or institution to choose the scheme under which he is to be governed. Besides, the scheme is applicable to all regularly appointed Group 'A', 'B' and 'C' Central Government Civilian Employees. As such, the applicants cannot claim that the MACP scheme is not to be made applicable to them. Hence, on this ground, the arguments made by the applicants' counsel about continuance of ACP to the applicants are not fully justified.

19. Further, we find that the main challenge to the scheme is due to its notification only on 19.05.2009 whereas it has been made effective from 01.09.2008. The applicants have claimed that this involves retrospective

implementation and as such is not tenable in law. However, we observe that the question of date of effectiveness from the date of issue comes in only when the date of effect is not explicitly mentioned in the notification itself. In this case, the date of effect is very clearly mentioned in the notification itself in paragraph 9 (Annexure-2 to the Counter Affidavit) wherein it is clearly stated that 'the scheme would be operational w.e.f. 01.09.2008. In other words, financial upgradations as per the provisions of the earlier ACP Scheme (of August, 1999) would be granted till 31.08.2008. Thus there was no doubt in the Scheme itself about the date of its implementation. Hence, the date of implementation with effect from the date of issue of notification is not relevant in the instant case in view of explicit provisions in this regard in the Scheme itself.

20. *We further note that the applicants have challenged and prayed for setting aside 'the orders of MACP Scheme, particularly the date of operational clause'. However, even though the Scheme has been issued by the DOP&T, the applicants have not made DOP&T as one of the parties and hence this particular prayer is liable for rejection due to non-impleadment of necessary party.*

21. *It is also important to remember that without quashing the MACP Scheme itself, its date of effect cannot be quashed or modified based on individual petitions like the present one. It is also good to note that the MACP Scheme has already been implemented across various central government organizations for last ten years now and lacs of central government employees have been benefited by this implementation. One of the main factor of implementation is its date of operation. If that date is changed, it cannot be changed only for one organization or for one category or for any particular purpose. If that is done, that will be unreasonable and inconsistent. This may lead to over - all inconsistency in the Scheme itself which may put the whole Scheme into question. If there is any modification in the date of operation, it may adversely affect lacs of other employees from whom recovery will become necessary as they may have been granted the benefit taking its date of effect as 01.09.2008. Thus, modification of the Scheme for individual cases would amount to discrimination against other individuals who have been governed by the same Scheme and have been benefited therefrom. This is more so keeping in view the scope and wide applicability of the Scheme across all organizations and establishments of Central Government, as discussed above.*

22. *Besides above, we also note that two financial schemes with same purpose of removal of stagnation in respect of government employees cannot run concurrently. In the instant case, the MACP Scheme has been made applicable to all regularly appointed Group 'A', 'B' and 'C' Central Government Civilian Employees except officers of organized Group 'A' service. As such, creating small category or class of employees where this Scheme would not be applicable from a particular date will itself be a great discrimination and would adversely affect many others who have been uniformly governed by this Scheme including the date of its operation.*

23. The applicants have also taken a plea that similar benefits have already been given to other employees of Ordnance Parachute Factory, Kanpur and Ordnance Equipment Factory, Hazarapatpur. This argument holds no substance in view of above discussion and uniform application of MACP across all Government organizations and institutions as per provisions laid down in the Scheme. A few abrasion here or there or miscalculation made by individual organization or for class of individuals cannot be made as a ground for extension of such benefits to others on this ground. As such, we do not subscribe this argument of the applicants at all. In this connection, **judgment of Apex Court dated 08.12.2009 passed in Civil Appeal No. 8151 of 2009 - Union of India & Ors. Vs. M.K. Sarkar is relevant**. It is held therein that a benefit illegally or irregularly extended to someone, cannot be granted to others on the ground of parity. More specifically, the Apex Court has held that 'the fact that someone who may be not entitled to the relief has been given relief illegally is not a ground to grant relief to a person who is not entitled to the relief.'

24. We also observe that one of the arguments taken by the applicants' side is that their reduction of pay amounts penalty under CCS (CCA) Rules for which they have not been given any opportunity to place their defence and have not been issued any show cause notice. Firstly, we are clear that reduction of pay, if wrongly fixed earlier, does not in any way amount to penalty under CCS (CCA) Rules and hence, no prior opportunity is mandatorily to be given to the applicants. In the instant case, reduction is only on account of correct fixation of pay which was earlier given to them wrongly at higher scale than what was admissible to them. Hence, this argument of the applicants does not have any substance. Secondly, we also note that it is incorrect on the part of the applicants to say that they have not been given any notice prior to recovery from them. The respondents have clearly stated in paragraph 18 of the counter affidavit that notice was in fact issued to the affected employees vide letter dated 07.10.2010. We also observe that even prior to this, Accounts Department and Test Audit had already objected to this fixation. Later, Ordnance Factory Board also vide its letter dated 03.09.2010 clearly held the view that the ACP benefit granted in the factory beyond 01.09.2008 was irregular.

25. We do note that in some other cases, this Tribunal has given some benefit to the similarly situated employees. However, as per the law laid down by the Hon'ble Supreme Court in catena of judgments and as cited above, error cannot be made as a ground for further grant of benefit by this Tribunal.

26. In view of all above, we are of the opinion that the applicants are not entitled to any relief claimed by them. Accordingly, the OA is dismissed. Consequently, the interim order dated 14.10.2010 passed by this Tribunal is vacated".

12. To the contrary, the Hon'ble Member (Judicial) while allowing OAs observed as under:-

"11. The limited dispute between the parties in the present OA is whether on introduction of MACP Scheme w.e.f. 01.09.2008, the benefit under erstwhile ACP could still be granted to the applicants or has been rightly withdrawn by the respondents. We have heard and considered the arguments of learned counsel for the parties and gone through the material on record. Both learned counsel for the parties have during the course of arguments reiterated the pleas raised by them in their pleadings.

*12. Learned counsel for applicants has placed on record judgment dated 13.02.2018 passed by the Division Bench (C.A.T. Allahabad) in O.A. No. 1231/2010 titled *Shiv Kumar Singh and others Vs. Union of India and others* and submitted that vide this judgment, the O.A. was allowed. It has been further argued by learned counsel for the applicants that the facts and the circumstances of both the cases are identical, as such, the O.A. be allowed in favour of the applicants.*

13. We have perused the aforesaid judgment of C.A.T, Allahabad. We find that the facts of the present O.A. and O.A. No. 1231/2010 (supra) are identical in nature. In both the OAs, applicant have challenged order No. 921 dated 27.07.2010, order No. 968 dated 03.08.2020 and order No. 969 dated 03.08.2010.

14. O.A. No. 1231/2010 (supra) was allowed by the Division Bench by observing that:-

*"17. In the light of the judgments in the cases discussed above, the case of the applicants in this case is similar to the case of the applicants in O.A. No. 1003/2011 before Chandigarh Bench of this Tribunal. Further, as per the ratio of the judgment of Hon'ble High Court in the case of *Union of India and others vs. S. Ranjit Samuel and others* (supra), the benefit of ACP is permissible to the employees if they are eligible as per the ACP Scheme from 1.09.2008 to 19.05.2009 even if the MACP Scheme is introduced with effect from 1.09.2008.*

18. In view of the above discussion. Hence, the OA has merits to succeed. Accordingly, the impugned orders dated 27.07.2010, 03.08.2009, copy at Annexure A-1, A-2 and A-3 of O.A. respectively are set aside and quashed. Consequently, the respondents are directed to fix the pay of the applicants as per the ACP benefit already allowed to them earlier and to refund the amount recovered from the applicants, if any, as a result of cancellation of ACP benefits".

15. Agreeing with and adopting the reasons given in OA No. 1231/2010 (supra), the OAs No. 1534/2010 and 1934/2010 are allowed as follow:-

- (i) OA No. 1534/2010:- *Impugned orders dated order No. 921 dated 27.07.2010, order No. 968 dated 03.08.2020 and order No. 969 dated 03.08.2010 (Annexure A-1) of the present O.A. are set aside and quashed. Accordingly, the respondents are directed to fix the pay of the applicants as per the ACP benefit already allowed to them earlier. Consequently, the respondents are restrained not to effect any recovery from the pay and allowances given in ACP benefits to the applicants.*
- (ii) OA No. 1934/2010:- *Consequently to above direction given in para 16 (i) in OA No. 1534/2010, impugned order No. E-58/LB/ACP dated 29.11.2010 is set aside and quashed.*

There is no order as to costs".

13. Now the issue which has arisen due to conflicting opinion between two Hon'ble Members, requiring a third judge opinion is:

- "(i) *Whether the applicants, all of whom had completed 24 years of service, were entitled to receive the second financial upgradation under ACP scheme i.e. to the next promotional hierarchy from Grade Pay of Rs.2400/ to the Grade Pay of Rs.4200/-, granted to them between December 2008 to April 2009, in view of the fact that MACP scheme was made effective retrospectively since 1.9.2008 and therefore, the benefit under ACP scheme could have been granted up to 31.8.2008 only.*
- (ii) *What will be the effect of the anomalous situation arisen due to retrospective implementation of new MACP scheme which was actually issued on 19.5.2009 but implemented retrospectively since 1.9.2008".*

14. Section 26 of Administrative Tribunals Act, 1985 provides that if the Members are equally divided and a reference is made to the Chairman, the Chairman shall either hear the point on which the Members have differed, either himself or refer the case to any other Member or Members to hear on such points. In view of the above, I am

limiting myself to take a decision on the aforesaid points formulated by me.

15. A perusal of both the judgments shows that learned counsel for the respondents himself had stated that the anomalous situation had arisen only due to the reason that the Government instructions were issued by DOPT on 19.5.2009, but making MACP scheme operational retrospectively from 1.9.2008. Had the DOPT instructions been made effective from 19.5.2009, i.e. the date of its issue, there would not have been any such anomaly in the action taken by the Factory while granting old ACP in the promotional hierarchy to these 300 odd employees in the meantime.

17. It is not for the first time that this controversy has arising due to such anomalous situation. Earlier also, several cases have been filed before this Bench and other Benches and the controversy is no more res integra. Various OAs have earlier been decided in favour of the applicants and the judgments passed by the Tribunals have been confirmed by various Hon'ble High Courts in writ petitions filed before them by Union of India.

18. One of the examples is the case of ***Union of India and others Vs. S. Ranjit Samuel and others Writ Petition Nos. 33946, 34602 and 27798 of 2014, filed by Union of India***, against order of the CAT Madras Bench. Here the cases of the employees were pending for consideration for sanction of 2nd ACP when the order dated 19.05.2009 implementing MACP Scheme was issued with effect from 1.09.2008. The employees were eligible for 2nd ACP from January

2009 to April 2009 and CAT had directed the Government to consider the claims of the employees under ACP. While dismissing the Writ Petitions, Hon'ble High Court has held as under:-

“10.The purpose and spirit of the Career Progression Scheme is only for the benefit of employees, who face stagnation in their career. That purpose and spirit cannot be defeated, if the benefit under the new Scheme is causing detrimental to the interest of the employees. The intention between the Scheme would not be as such. In any event, as a principle of purposive interpretation, it has to be seen that what is more advantageous to the employees is what should be preferred, since the Scheme being a beneficial one, cannot be allowed to result in loss to the employees on its implementation. Therefore, in all fairness and fitness of things, till the introduction of MACP Scheme vide Office Memorandum dated 19.05.2009, the benefit which accrued to the employees under the erstwhile ACP Scheme ought to have been made available.

11. Moreover, it has to be seen that Tribunal itself has allowed similar application and no contra material has been produced before us to take a different view in the matter. The well intended benefit under ACP or MACP cannot be allowed to suffer loss of proper fixation in the higher pay scale as such consequence would not further the purpose and spirit of the Scheme.

12. In these circumstances, we do not find anything wrong in the final direction passed by the learned Tribunal in the impugned orders. Therefore, the Writ Petitions fail and the same are dismissed.....”

19. In a similar matter, **C.A.T, Ernakulam Bench in its order dated 24.03.2015 passed in O.A No. 252/2013 – K. Soman Pillai & Others vs. Union of India and others** has held as under:-

“9. In our view, there is very significant aspect in this case. Annexure A-1 O.M dated 19.05.2009 which introduced the MACP for Central Government civilian employees was brought into force the scheme retrospectively with effect from 1.9.2008. The employees who got financial upgradation after 1.9.2008 i.e. the date on which the MACP was introduced would suffer monetary loss if the 2nd ACP to which they have acquired a vested right under the old scheme is denied on the premises that by that time the MACP has been brought into

effect. We are of the view that in such cases the retrospective application of the Annexure A-1 O.M taking away the vested rights of the applicants under the ACP Scheme will certainly be contrary to the law laid down by the Apex Court that amendments in the rules with retrospective effect affecting prejudicially the persons who had acquired rights are ultra-vires of the Constitution (see Ex. Capt. K.C. Arora and another V. State of Haryana and others 1984(@) SLR 97). As observed by the Madras Bench of the Tribunal in O.A No. 818/2011, the applicants who have completed 24 years of service becoming eligible for the 2nd ACP by April , 2009 would have been got such benefits had their cases been subjected to the Screening Committee within time.

10. *In the instant case the applicant had got only one regular promotion. Therefore, they were eligible to be considered for the benefit of 2nd financial upgradation under the ACP Scheme, even prior to the issue of orders for implementation of the MACP Scheme.*
11. *In the above circumstances, we direct the respondents to place the case of the applicants before the Screening Committee for consideration for grant of 2nd financial upgradation under the ACP Scheme on completion of 24 years of service provided they had completed this period as claimed by them in April, 2009 i.e. prior to issue of Annexure A-1 O.M dated 19.5.2009 by which date the MACP Scheme came to be introduced. If, based on such consideration by the Committee, the applicants are found eligible to get 2nd financial upgradation under the ACP Scheme before the issue of Annexure A-1 O.M, the benefit of financial upgradation under MACP Scheme, if extended would have to be withdrawn. This exercise shall be completed by the respondents within four months from the date of receipt / production of a copy of this order. The O.A stands disposed of as above. No order as to costs.”*

20 The Chandigarh Bench of this Tribunal vide its order dated 23.02.2012 passed in O.A No. 1003/PB/2011 - P. No. 6965534, Amar Singh & others Vs. Union of India and others allowed benefit of 2nd ACP to the employees during 2008-2009. After introduction of MACP, the authorities withdrew the ACP benefit and allowed 2nd MACP which

resulted in loss of pay for the employees. In allowing the OA, this Tribunal in order dated 23.02.2012 has held as under:-

"10. On merits, we find that it is now a well settled principle of law that conditions of service cannot be altered retrospectively to the prejudice of a public servant. The judgments cited by the learned counsel for the applicants clearly lay down that the applicants cannot be made to suffer on account of any decision applied retrospectively. The DOPT had taken into account this aspect of the matter and in para 11 of their OM no. 35034/3/2008.EStt. (D), dated 19.5.2009, it has been clearly stated as follows:-

It is clarified that no past cases will be re-opened. Further, while implementing the MACP Scheme the differences in pay-scales on account of grant of financial upgradation under the ACP Scheme (of August 1999) and under the MACP Scheme within the same cadre shall not be construed as an anomaly.

This para has not been discussed at all in the speaking order dated 25.8.2011 issued by the respondents.

11. The applicants cases are within the ambit of the provision in the above-mentioned letter dated 19.5.2009, para 11, since these cases would constitute past cases because these were decided before the coming into force of the MACP Scheme. They had been granted the second ACP on different dates in 2008-2009, which are prior to the date of the issue of the MACP Scheme i.e. 19.5.2009. Since these applicants had obtained the said benefits under the old ACP Scheme before 19.5.2009, therefore, they would be covered under the definition of past cases and as provided in para 11 of the Scheme, these cases are not to be reopened. Therefore, we find that the respondents have misinterpreted the provision of this para of the Scheme and have wrongly withdrawn the earlier benefit from the applicants. Therefore, the impugned order dated 25.8.2011 is hereby quashed and set aside and consequently, the respondents are directed to fix the pay of the applicants after ensuring that they do not suffer any prejudice vis-a-vis the pay-scales already granted to them. They are also directed to ensure that all the applicants, who, if they are similarly placed and had all got/were eligible for the 2nd ACP before 19.5.2009, are given similar benefits as per law and rules and their eligibility. Consequently, no recovery is to be made from the applicants. This exercise may be completed within a period of 4 months from the date of receipt of a copy of this order. The applicants have also prayed that para 9 of the OM dated 19.5.2009 may be quashed. For the

reasons mentioned in the preceding paras, we find that this is not required since the OM already provides that past cases are not to be re-opened".

21. This Bench in the case of Shiv Kumar Singh and 63 others Vs. Union of India and others in OA No.330/1231/2010 decided on 13.2.2018 has also allowed the OA and has set aside the impugned order by holding that the benefit of ACP is permissible to the employee from 1.9.2008 to 19.5.2009 even if the MACP scheme is introduced w.e.f. 1.9.2008.

22. Learned counsel for the applicants has also place before me a judgment passed by the undersigned while sitting at CAT, Principal Bench, New Delhi with Hon'ble Member (A) Mr. Pradeep Kumar involving the same controversy and we had observed in the aforesaid judgments as under:-

"With adoption of MACP, ACP was retrospectively stopped w.e.f. 01.09.2008 i.e. curtailed on 31.08.2008. When MACP Scheme was adopted w.e.f. 01.11.2011, it could not mean that ACP benefits which were already granted earlier, are to be withdrawn and especially so, as ACP was already in force since 09.08.1999..... 12. The MACP policy directives were issued on 19.05.2009, and it was to take effect from 01.09.2008. Prior to 19.05.2009, ACP was in force and some employees were granted ACP benefits between 01.09.2008 to 19.05.2009..... The right to be granted 2nd ACP was already earned by the applicant before MACP Scheme was adopted by DEITY. Accordingly, this 2nd ACP cannot be withdrawn".

23. Hon'ble Madras High Court in case of ***Union of India and six others Vs. S. Ranjit Samuel and twenty seven others in Writ Petition No. 33946, 34602 and 27798 of 2014***, while affirming the judgments passed by CAT has held as under:-

“10. Although it is a matter of record that MACP Scheme was introduced vide memorandum dated 19.05.2009, but the same was put into effect from 01.09.2008. In the instant case, admittedly, before introduction of the MACP Scheme under the Office Memorandum dated 19.05.2009, the applicants have completed 24 years of service and their right to get second financial upgradation under the erstwhile ACP scheme got crystallised and such right cannot be sought to be negated by bringing in a new Scheme with retrospective effect. The purpose and spirit of the Career Progression Scheme is only for the benefit of employees, who face stagnation in their career. That purpose and spirit cannot be defeated, if the benefit under the new Scheme is causing detrimental to the interest of the employees. The intention behind the Scheme would not be as such. In any event, as a principle of purposive interpretation, it has to be seen that what is more advantageous to the employees is what should be preferred, since the Scheme being a beneficial one, cannot be allowed to result in loss to the employees on its implementation. Therefore, in all fairness and fitness of things, till the introduction of MACP Scheme vide Office Memorandum dated 19.05.2009, the benefit which accrued to the employees under the erstwhile ACP Scheme ought to have been made available.

12. In these circumstances, we do not find anything wrong in the final direction passed by the learned Tribunal in the impugned orders. Therefore, the Writ Petitions fail and the same are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed”.

24. While relying on its earlier judgment passed by Constitution Bench in **State of Gujarat Vs. Raman Lal Keshav Lal Soni (1983) 2 SCC 33**, Hon’ble Supreme Court has held that benefit acquired could not be taken away by an amendment with retrospective effect.

25. A full Bench in CAT Principal Bench, New Delhi in **OA No. 557 of 2004 Shri Prakash Chandra and seven other Vs. Union of India and others** after relying on several judgments has held as under:-

"12. The ACP Scheme is not statutory in nature but it is a beneficial Scheme. Certain rights have been created on its implementation and granting of the benefit thereto. Necessarily, once such a benefit has been accorded, by clarifications it cannot be withdrawn. We hasten to add that by no stretch of imagination we are putting an end to the right of the State to amend the Scheme, if deemed appropriate in accordance with law. In the present case before us, there is no amendment of the Scheme, but, as already referred to above, by an administrative order, an attempt is made to do so".

26. The same issue has recently been considered by the Hon'ble High Court of Karnataka in **Writ Petition No. 24894 – 24908 of 2016 (S-CAT) MES No. 600051 Sri B.D Kadam and 14 other Vs. Union of India and others** and Hon'ble Karnataka High Court has held as under:-

"9. When the employees who had completed 24 years of continuous service during the period from 1.1.2006 to 31.8.2008 were granted the II-ACP in accordance with the terms of the erstwhile ACP Scheme, there was no reason for the respondents to deny the said benefit to the petitioners by declaring the MACP Scheme effective from retrospective date. Even otherwise, we do not find any logic in the reasoning of the Tribunal that since the benefit of revision of pay was extended to the employees retrospectively, the respondents were justified in making the MACP Scheme operational from retrospective date.

10. In our view, the revision of pay of the employees has no nexus whatsoever with the grant of financial upgradation to the petitioners in accordance with the Scheme formulated by the Government. Since the pay structure has been changed uniformly to all the employees with effect from 1.1.2006, it goes without saying that the employees who are eligible for the financial upgradation under the erstwhile ACP Scheme are entitled for the said benefit in the new pay structure. Since all the petitioners in the instant case have completed 24 years of continuous service much prior to the introduction of MACP Scheme, in the ordinary course, the Screening Committee ought to have considered the case of the petitioners for grant of second financial upgradation under the ACP Scheme. If for any reason the Screening Committee has delayed in granting the benefit of second financial upgradation to the petitioners, the petitioners cannot be penalized for the

laxity or inaction of the Screening Committee. The right of the petitioners for the II-ACP having been crystallized much before the introduction of MACP Scheme, the said benefit cannot be taken away by retrospective application of the MACP Scheme.

11. *It is a cardinal principle of law that benefits acquired under existing rules cannot be taken away by amending the Rules with retrospective effect. The retrospective date fixed under clause 9 of the MACP Scheme has no reasonable nexus with the object sought to be achieved by introducing a Modified Assured Progression Scheme. The MACP Scheme having been devised to off-set the opportunities of regular promotion to the employees, denial of the said benefit to a section of the employees who fall within the bracket is arbitrary and unconstitutional being violative of Articles 14 and 16 of the Constitution of India.*

12. *It is also important to note that the retrospective application of the MACP Scheme has the effect of adversely affecting the conditions of service of the petitioners in as much as the petitioners who have already completed 24 years in the same cadre are required to wait for another term of ten years to WP Nos.24894-24908/2016 (S-CAT) get the second financial upgradation, whereas the similarly placed employees who have availed the ACP just on the eve of the cut-off date would be entitled for III-ACP Scheme much earlier than the petitioners. Given the age of the petitioners, even the possibility of getting the second financial up-gradation by the petitioners is remote as in all likelihood most of the petitioners would retire before completing the term of ten years prescribed under MACP Scheme. This is an invidious discrimination and has the effect of unreasonably restricting the conditions of service of the petitioners in violation of Article 311 of the Constitution of India.*

13. *The Tribunal has failed to advert its mind to the above facts and has proceeded to uphold the notification solely on the ground that the petitioners have availed the benefits of revised pay bands and grade pay with effect from 1.9.2008. The revised pay bands and grade pay having been availed even by the other employees who have been granted the ACP Scheme subsequent to 1.1.2006, there is absolutely no reason to deny the said benefits to the petitioners on the purported ground. Therefore, viewed from any angle, we do not find any justifiable reason to uphold the impugned order.*

14. *As the right of the petitioners to get second financial up-gradation under the erstwhile ACP Scheme had crystallized much before the introduction of MACP Scheme, the said right cannot be negated by*

retrospective operation of the MACP Scheme. On careful reading of O.M. dated 19.5.2009, we are of the considered view that the retrospective application of the MACP Scheme is detrimental to the rights of the petitioners and is discriminatory and therefore violative of Articles 14 and 16 of the Constitution of India. As a result, we hold that para 9 of the O.M. dated 19.5.2009 (Annexure-A7) in so far as making the MACP Scheme applicable to the petitioners with retrospective effect from 1.9.2008 is bad in law. Consequently, the petitioners are entitled to be considered for grant of II-ACP in terms of the erstwhile ACP Scheme. To that extent, the impugned order passed by the Tribunal is liable to be set-aside.

Accordingly, we pass the following:-

ORDER

- (i) *Writ petitions are allowed.*
- (ii) *It is held that para 9 of the O.M. dated 19.5.2009 (Annexure-A7) in so far as making the MACP Scheme applicable to the petitioners with retrospective effect from 1.9.2008 is bad in law.*
- (iii) *Consequently, the common order dated 10.3.2016 passed by the Central Administrative Tribunal, Bengaluru Bench, Bengaluru in O.A.Nos.1086-1091 of 2014 and 897-905 of 2015 in so far as making the MACP Scheme applicable to the petitioners with retrospective effect from 1.9.2008 is set-aside.*
- (iv) *Petitioners are entitled for consideration of grant of II-ACP benefits in terms of the erstwhile ACP Scheme. (O.M. dated 9.8.1999".*

27. Learned counsel for the respondents has not placed before me any such judgment to show that the judgments cited by learned counsel for the applicants have been set aside in appeal by the higher courts.

28. In view of the above, there does not appear any good ground for not relying on the judgments of various Hon'ble Courts cited above by the learned counsel for the applicants.

29. It is also noteworthy that the right of the petitioners to get 2nd financial upgradation under ACP scheme had crystallized much before the introduction of ACP scheme and the said right cannot be negated by retrospective application of MACP scheme. In wake of all the judgments quoted above, the view taken by Hon'ble Member (Judicial) Shri Rakesh Sagar Jain appears more appropriate and justified. On the basis of the above discussion, I fully concur with the view taken by Hon'ble Member (J).

30. Accordingly, both the Original Applications stand allowed the impugned orders dated 27.7.20010 and 3.8.2010 (in OA No. 1534/2010) and 29.11.2010 (in OA No. 1934/2010) are set aside. It is directed that the applicants shall retain the benefits of second ACP granted to them. The recoveries, if any, made already by the respondent department shall be refunded to them within a period of three months from the date of receipt of a certified copy of the order.

Third Judge Reference decided accordingly.

(Justice Vijay Lakshmi)

Member (Judicial)

Manish/-