

**Central Administrative Tribunal  
Principal Bench**

**OA No. 510/2021  
MA No. 631/2021  
With  
OA No. 1412/2020  
MA No. 363/2021  
MA No. 2699/2020**

New Delhi, this the 22<sup>nd</sup> day of March, 2020

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

**1. OA No. 510/2021**

1. ESIC Pharmacist Association, Delhi (Regd.)  
Through its General Secretary, Shri Kashmir Singh  
Aged 56 years  
Registered Office  
ESIC Hospital Complex  
Basai Darapur, New Delhi-110015  
E-mail ID [navpoo7377@gmail.com](mailto:navpoo7377@gmail.com)  
Mob. No. 9555865445.
2. Udai Veer Singh, aged 55 years, (zonal secretary)  
S/o Shri Shiv Pal Singh  
R/o 18-D, MIG DDA Flats  
Shivam Enclave, Shahdara SO  
East Delhi, Delhi-110032. ... Applicants

(through Sh. Rajat Aneja with Ms. Rajula, Advocates)

Versus

1. Union of India  
Ministry of Labour and Employment  
Through Secretary  
Rafi Marg, New Delhi-110001  
E-mail [ID-secy-labour@nic.in](mailto:ID-secy-labour@nic.in) &  
[uoi.litigation.cat@gmail.com](mailto:uoi.litigation.cat@gmail.com)
2. Employees State Insurance Corporation (ESIC)  
Through its Director General  
ESIC Headquarters  
CIG Road, Panchdeep Bhawan



New Delhi-110002  
E-mail ID [-dir-gen@esic.nic.in](mailto:-dir-gen@esic.nic.in)  
Phone no. 011-(23235391, 23232708)  
Standing Counsel: Mr. Krishna Kant  
Email ID [krishkant2007@gmail.com](mailto:krishkant2007@gmail.com)  
Mob No. 9811728389, 8882941995.

3. Department of Personnel and Training  
Ministry of Personnel, Public Grievance and Pension  
Government of India, North Block, New Delhi-110001  
E-mail ID [diradmin@nic.in](mailto:diradmin@nic.in)  
Phone No. 011-(23092338) ... Respondents

## **2. OA No.1412/2020.**

1. **RAJESH KUMAR**  
S/o Late Fateh Chand Gupta  
R/o B-274 SaraswatiVihar, Pitampura,  
New Delhi- 110034
2. **SANDEEP SOOD**  
S/o P.K. Sood  
R/o B1/431, Janakpuri, New Delhi- 110058
3. **ISHWAR CHANDRA**  
S/o Sh. Chandgi Ram  
R/o H.No. 612 A/ 33, Ram Nagar  
Kath mandi, Rohtak, Haryana
4. **SUNEEL KUMAR**  
S/o K.C. Sharma  
R/o 484 Second Floor, Sector-4  
Vaishali, Gaziabad-201002, U.P.
5. **DAYA KISHAN SHARMA**  
S/o Lt. R.D. Sharma  
R/o B234, Sector-105, Noida, U.P.
6. **SHRI PRAKASH**  
S/o Ram DihalShukla  
R/o 256, Shakti Khand-III,  
Indirapuram, Gaziabad-201002, U.P.

**7. BIJO CHERIAN**

S/o P.I. Cherian  
R/o SRD-3A, Shipra Riviera,  
Indirapuram, Gaziabad 201002, U.P.

**8. BRIJ MOHAN CHAUHAN**

S/o Lt. D.S. Chauhan  
R/o E-317, Sector-17, Vasundhara, Ghaziabad, U.P.

**9. RAM SINGH**

S/o Disondi Ram  
R/o 375 Village, Gharoli  
MayurVihar Ph-3, Delhi-110096

**10. SUNIL KUMAR AGGARWAL**

S/o Pritam Singh  
R/o H.No. 557, Ward No. 10  
BawaraMohalla, Rohtak-124001, Haryana

**11. SURENDER KUMAR**

S/o Shri Niwas  
R/o 255/23, Kath Mandi,  
Sonipat-131001, Haryana

**12. MOHAN LAL**

S/o Jai Ram Lal  
R/o Quarter No.1, Type III  
ESI Dispensary Complex, Karampura  
New Delhi-110015

**13. INDU BALA**

W/o Deepak Kumar  
R/o 21 Milansaar Apartments  
PaschimVihar, New Delhi-110063

**14. RAM NIWAS VERMA**

S/o Lt. Babu Ram Verma  
R/o RZ 699/314, Gali No.6C, Geetanjali Park  
West Sagarpur, New Delhi-110046



15. **SATBIR SINGH**  
S/o Sh.JaiNarayan  
R/o H.No. 479 Sector-2, Bhadurgarh,  
Jhajjar, Haryana-124507
16. **KULDEEP SINGH**  
S/o Lt. SurajMal  
R/o H.No. 1096/21, Prem Nagar  
Rohtak, Haryana-124001
17. **ANIL KUMAR**  
S/o Prem Singh  
R/o B-69, Vijay Nagar  
Bawana, Delhi-110039
18. **JASWANT SINGH**  
S/o Lt. Bhujjn Ram  
R/o 6-A, DDA LIG Flats, Madipur  
New Delhi-110063
19. **RAKESH KUMAR SILOTIA**  
S/o Ram Singh Silotia  
R/o 16/88, Sector-15  
Rohini, Delhi-110085
20. **RAJ KUMAR**  
S/o RameshwarDass  
R/o N-35, BudhVihar, Ph-1  
Delhi-110086.
21. **JAI KISHAN**  
S/o Ram Chandra  
R/o H.No. 300, Sector-23  
Sonipat-131001, Haryana
22. **SANJEEV KUMAR KHATRI**  
S/o Hari Ram  
R/o H.No. 460-A, V&PO Bankner, Delhi-110040.
23. **DALBIR SINGH MALIK**  
S/o, Dalip Singh

R/o C-4/12, Rama Vihar, Delhi-110081.



**24. SATPAL SINGH ROHILLA**

S/o Lt. Chand Ram  
R/o RZ-45, Roshan Mandi  
Najafgarh, New Delhi-110043

**25. VINOD KUMAR**

S/o SurajBhan  
R/o A-24A, Gopal Nagar, Najafgarh  
New Delhi-110043

**26. DALBIR SINGH**

S/o Ram Kishan  
R/o D-229, Prem Nagar, Najafgarh  
New Delhi-110043

**27. SURINDER KUMAR JAIN**

S/o FiroziLal  
R/o RZ 40/4, Gali No.5 Raj Nagar-1  
Palam Colony, New Delhi-110077

**28. RAJINDER KAUSHIL**

W/o Lt. Vipin Kumar Kaushil  
R/o Flat No. 785, Shree Awas Apartment  
LNT, Sector-18B, Dwarka New Delhi-110078

**29. LATESH RATHI**

D/o Attar Singh Chikkara  
R/o 135, Village- Raj PurKhurd  
Near ChatarpurMandir, P.O. MaidanGarhi  
New Delhi-110068

**30. SATISH KUMAR GARH**

S/o Lt. Ram Swaroop Garg  
R/o RZ-44/291, Street No. 6, Geetanjali Park  
West Sagarpur, New Delhi-110046

**31. PURAN CHAND**

S/o Lt. Panchu Ram  
R/o D-II/41 Madangir, New Delhi-110062



- 32. SANJEEV KUMAR SHARMA**  
S/o Lt. RajenderDutt Sharma  
R/o A-7, Kewal Park Ext. GurunanakGali  
Azad Pur Delhi-110033
- 33. GHANSHYAM**  
S/o Ram KishanVerma  
R/o RZ-B6, Jeevan Park, Uttam Nagar  
New Delhi-110059
- 34. ANOO**  
D/o Lt. SardarSaroop Singh  
R/o PD-28C, Pitmapura, Delhi-110034
- 35. DHANVANTRI**  
S/o Sat Narayan  
R/o RZ-G 97A, Nanda Ram Park  
Uttam Nagar, New Delhi-110059
- 36. RANJANA GOYAL**  
D/o Dr. R.S. Gupta  
R/o B1/434, Janakpuri, New Delhi-110058
- 37. SURESH KUMAR GOEL**  
S/o Lt. B.P. Goel  
R/o B-1/434, Janakpuri, New Delhi-110058
- 38. SEEMA SHARMA**  
D/o A.K. Chadha  
R/o Quarter No.3 Type-II  
ESIC Dispensary Complex, NIA-I  
Moti Nagar, New Delhi-110015
- 39. VINOD KUMAR JAIN**  
S/o Lt. Babu Ram Jain  
R/o GH-14/174, PaschimVihar  
New Delhi- 110087
- 40. YASH PAL**  
S/o Mange Ram

R/o V&PO Jatheri, PS-Rai  
Distt.Sonipat-131001, Haryana



41. **VINOD KUMAR**  
S/o Lt. Manohar Lal Kumar  
R/o 421, Sector-4, Urban Estate, Gurgaon-122001
42. **BALDEV JAI GERA**  
S/o Gurdayal Gera  
R/o A-61, AnandVihar, Uttam Nagar  
New Delhi-110059
43. **CHANDRA SHEKHAR AGGARWAL**  
S/o Lt. Jagdish Sharan Aggarwal  
R/o 7-C, Block-A-3, DDA Flats  
PaschimVihar, New Delhi-110063
44. **KUSUM KASANA**  
D/o Balbir Singh  
R/o C-106, Sector-49, Noida-121101, U.P.
45. **SUNIL KUMAR**  
S/o Lt. BhishamPartap  
R/o H.No. 1443 Near Water Works,  
Sector-1, Rohtak, Haryana-104001
46. **RAJESH GAMBHIR**  
S/o Lt. S.L. Gambhir  
R/o C-700, Vikaspuri, New Delhi-110018
47. **SATISH CHANDRA SHARMA**  
S/o JatanSwaroopKaushik  
R/o 185/38A, Krishna Gali No.6, Maujpur,  
Delhi- 110053
48. **DINESH SINGH NEGI**  
S/o Sh. Diwan Singh  
R/o 13/347 Vasundhara, Ghaziabad
49. **BIMLESH ROHILLA**  
D/o Sh. Mangal Singh

R/o Pocket-F 244 C, Dilshad Garden,  
Delhi- 110095



**50. DEVENDER KUMAR JAIN**

S/o Sh. MitthuLal Jain  
R/o C-188, Gali No.-9 Bhajanpura,  
Delhi-110053.

**51. ARUN KUMAR**

S/o Dharam Dev  
R/o 1345, Sector-15 Sonipat, Haryana

**52. SANJAY GOEL**

S/o Jai Prakash  
R/o H. No.2101, Narela, Delhi- 110040

**53. MADHU ROHILLA**

W/o Pramod Kumar  
R/o DG-II/190B, Vikaspuri,  
New Delhi- 110018

**54. MUKESH GUPTA**

S/o Late Dulichand Gupta  
R/o 60, Sector 2A, Vaishali,  
Ghaziabad-201010

**55. SURESH KUMAR MALHOTRA**

S/o Ishwar Das Malhotra  
R/o WZ 327 A, Rishi Nagar,  
RaniBagh, Delhi- 110034

**56. JAGDISH LAL**

S/o Vir BhanThakur  
R/o 240, Tarun enclave, Pitam Pura,  
Delhi- 110034.

**... APPLICANTS**

**VERSUS**





**1. EMPLOYEES STATE INSURANCE CORPORATION  
THROUGH DIRECTOR GENERAL**

Ministry of Labour & Employment, Government of India  
Panchdeep Bhawan, Comrade Indrajeet Gupta (CIG)  
Marg,  
New Delhi - 110 002

**2. DEPARTMENT OF PERSONNEL AND TRAINING  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCE AND  
PENSIONS**

Government of India  
North Block, New Delhi - 110 001

**3. DEPARTMENT OF EXPENDITURE  
MINISTRY OF FINANCE**

Government of India  
Room No. 76,  
New Delhi - 110001 (India)

... **RESPONDENTS**

**: O R D E R (ORAL) :**

**Justice L. Narasimha Reddy, Chairman:**

Common issues are involved in both the OAs. While OA No.510/2021 is filed by an Association with another employee, OA No.1412/2020 is filed by individual employees. Hence, they are disposed of by this order.

2. The applicants filed this OA challenging two circulars dated 10.06.2015 and 20.02.2020 which were in relation to the method of extension of the benefit of MACP.

3. In the establishment of ESIC, there are three categories of Pharmacists namely, Pharmacist, Pharmacist Grade-I and Pharmacist Grade-II with different scales of



pay. Consequent upon the recommendations of the 6<sup>th</sup> Central Pay Commission, merger took place and the pay scales were also different. For some of the Pharmacists, the benefit of the Grade Pay of Rs.4200/- was extended on completion of two years of service. The establishment passed orders on 09.05.2011 providing for extension of the benefit of 1<sup>st</sup> MACP in the grade pay of Rs.4600/-. 2<sup>nd</sup> MACP on completion of ten more years of service in the grade pay of Rs.4800/- and 3<sup>rd</sup> MACP on completion of further ten years in the Grade Pay of Rs.5400/-. The upgradation on completion of two years of service was ignored in the context of MACP. In the impugned orders, it was mentioned that the upgradation to the Grade Pay of Rs.4200 would offset one MACP. This resulted in sliding of the pay scales indicated in the order dated 09.05.2011, downwards.

4. The applicants contend that in case of many employees, the Grade Pay of Rs.4200/- resulted on account of the restructuring of the pay scales and not by way of upgradation. They also pleaded that the benefits that were extended on completion of two years of service cannot be treated as holding good against one MACP.



5. We heard Shri Rajat Aneja, learned counsel for the applicants in OA No.510/2021, Shri Rajat Malhotra, learned counsel for the applicants in OA No. 1412/2020 and Shri Manish Kr. Saran, learned counsel for the respondents.

6. Though reference is made to several proceedings by the applicants, the ultimate dispute is as to whether the upgradation of the pay of the Pharmacist to the Grade Pay of Rs.4200/- on completion of two years of service would offset that MACP. The order dated 09.05.2011 was issued on the premise that it would not have any impact upon the 1<sup>st</sup> MACP, 2<sup>nd</sup> MACP and 3<sup>rd</sup> MACP.

7. The MACP Scheme was introduced through OM dated 19.05.2009. This has replaced the ACP Scheme. Under the ACP Scheme, it is only when an employee did not get promotion in the 1<sup>st</sup> spell of 12 years or the 2<sup>nd</sup> spell of another 12 years, that the benefit in the form of upgradation to the next pay scale attached to the next higher post was granted. In contrast, the MACP provided for granting of 1<sup>st</sup> MACP on completion of 10 years, 2<sup>nd</sup> on completion of 20 years and 3<sup>rd</sup> on completion of 30 years of service, in case the employee did not earn promotion or “upgradation” during these spells. The upgradation, which

did not matter under the ACP became relevant, under the MACP.



8. For instance, in the Customs and Central Excise department certain categories of employees were put on a next higher grade on completion of four years of service. Though extensive litigation ensued the matter was put at rest in the recent past by directing that the upgradation would offset the corresponding MACP. Almost identical situation obtains in this case. The applicant did not deny that the benefit of upgradation to the grade pay of Rs.4200/- was extended on completion of two years of service. That naturally would offset one MACP. In the recent past, the Hon'ble Supreme Court decided the issue finally in ***Union of India vs. M.V. Mohanan Nair***, CA No. 2016/2020.

9. It is stated that in certain cases, the Pharmacists got the grade Grade Pay of Rs.4200/- otherwise than by upgradation on completion of two years. If that is so, the matter needs to be pleaded before the competent authority. The impugned order cannot be found fault with.

10. We, therefore, dismiss the OA declining to interfere with the impugned order. However, we leave it open to the



Pharmacists with Grade Pay of Rs. 4200/- otherwise than by way of upgradation on completion of two years, to make a representation and the respondents shall be under obligation to examine the same under the relevant rules. Wherever recovery becomes necessary, the respondents shall follow the principles of law, applicable on the subject.

There shall be no order as to costs.

**(A. K. Bishnoi)**  
**Member (A)**

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

pj/ns