



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

OA No. 900/2020

This the 13th April, 2021

(Through Video Conferencing)

**Hon'ble Mr. A. K. Bishnoi, Member (A)
Hon'ble Mr. R. N. Singh, Member (J)**

1. Madan Lal Batra
Age 71 years
S/o Late Shri Mela Ram Batra
Retired on 31.10.2008
As Principal Private Secretary
Research & Analysis Wing
Cabinet Secretariat
R/o Sector XI, P-118,
Noida – 201301 (UP)
2. G.K. Valecha
Age 66 years
S/o Late Khubchand Dharam Das
Retired on 31.05.2013
As Private Secretary
Research & Analysis Wing
Cabinet Secretariat
R/o Flat No. 602, 6th Floor, Chand Palace
Near Hemraj Dairy
Ulhasnagar – 421001
Distt : Thane (Mumbai)
3. D.R. Sharma
Age 68 years
S/o Late Baij Nath Sharma
Retired on 31.3.2011
As Principal Private Secretary
Research & Analysis Wing
Cabinet Secretariat
R/o B-11/8015, Vasant Kunj
New Delhi – 110070



4. Mrs. Satish Arora
Age 70 years
W/o Late Prem Prakash Arora
Retired on 30.06.2009
As Under Secretary
Research & Analysis Wing
Cabinet Secretariat
R/o 1302, Tower 1
Malibu Town, Sohna Road
Sector 47, Gurgaon – 122018
5. Ashok Kumar Verma
Age 70 years
S/o Late Shri Kishori Lal
Retired on 31.05.2009
As Private Secretary
Research & Analysis Wing
Cabinet Secretariat
R/o House No. F-175/A,
Kusum Villa,
Laxmi Nagar, Shakarapur,
Delhi – 110092

..... Applicants

(By Advocate: Sh. Padma Kumar S.)

Versus

1. Union of India,
Through Secretary (R)
Cabinet Secretariat
Pt. Deen Dayal Antyodaya Bhawan
CGO Complex, New Delhi – 110003
2. Secretary
Department of Personnel & Training
North Block, New Delhi - 110001

...Respondents

(By Advocate: Sh. Hanu Bhaskar, Sr. Central Govt. Counsel)

**ORDER (Oral)**

Hon'ble Mr. R. N. Singh, Member (J):

Heard the learned counsels for the parties.

2. In the present case, grievance of the applicants is that the benefits of the 3rd MACP with Grade Pay of Rs.7600 have not been released to the applicants.

3. This is a second round of litigation. In the first round of litigation, the applicants approached this Tribunal vide OA No.1477/2019 on the ground that similarly placed persons have approached this Tribunal vide OA No.1622/2014, titled as **V. K. Sharma & Ors. Vs. Union of India & Ors.**, and the same was allowed by this Tribunal vide Order/Judgment dated 18.09.2015 (Annexure A-7) and the respondents had challenged the said Order/Judgment of this Tribunal before the Hon'ble High Court of Delhi by filing a Writ Petition (Civil) No.109/2016 and the said Order/Judgment of this Tribunal was upheld by the Hon'ble High Court of Delhi vide Order/Judgment dated 25.04.2017 (Annexure A-8) passed in the said Writ Petition, titled as **Union of India & Ors. Vs. V. K. Sharma & Ors.** It is also not in dispute that the Order/Judgment of this Tribunal dated 18.09.2015 and that of the Hon'ble High Court dated



25.04.2017 was challenged by the Government before the Hon'ble Supreme Court by filing an SLP and the said SLP preferred by the Government was dismissed by the Hon'ble Supreme Court vide Order/Judgment dated 3.5.2018. Thereafter, the Order/Judgment of this Tribunal dated 18.09.2015 was given effect to in respect of the applicants therein. Similarly placed persons, on being refused the identical benefits, have approached this Tribunal vide OA No.3290/2012, titled as **G.S. Bhatti and Ors. Vs. Union of India and Ors.**, and this Tribunal disposed of the said OA vide Order/Judgment dated 10.10.2018 (Annexure A-9). The aforesaid OA No.1477/2019 preferred by the instant applicants was disposed of by this Tribunal vide Order/Judgment dated 13.05.2019 (Annexure A-11) with directions to the respondent to consider the applicants' pending representations. Learned counsel for the applicants argues that the aforesaid benefits though exceeded to the applicants in the aforesaid two OAs, namely, OA No.1622/2014, titled as **V. K. Sharma & Ors. Vs. Union of India & Ors.** and OA No. 3290/2012, titled as **G.S. Bhatti and Ors. Vs. Union of India and Ors.**, by the respondents,



however, the identical benefits have been refused to the applicants vide orders dated 22.10.2019 and 04.03.2020 (Annexure A-1). The impugned orders dated 22.10.2019 and 04.03.2020 (Annexure A-1) reads as under:-

No.11/11/2013-Pers.6-14501

New Delhi, the 22/X/19

To
Shri G.K. Velechha,
Chanda Palace, 6th Floor
Flat No.602, Near Memraj Diary,
Ulhasnagar-421001, Distt-Thane (Mumbai)

Subject: Extension of benefit of financial upgradation to the Grade Pay of Rs. 7600/- on completion of 30 years of service as allowed to petitioners in OA No.1622/2014 filed by Shri V.K. Sharma, Under Secretary & Ors. Vs. Union of India and in OA No. 3290/2012 filed by Shri G. S. Bhatti & Ors. Vs. UOI - representation of non-petitioners regarding

Sir,

Please refer to your letter dated 04.10.2019 on the above cited subject.

2. It is informed that the matter regarding extension of benefit of financial upgradation to the Grade Pay of Rs.7600/- on completion of 30 years of service as allowed to petitioners in OA No.1622/2014 filed by Shri V.K. Sharma, Under Secretary & ors. Vs. Union of India and in OA No.3290/2012 filed by Shri G.S. Bhati & Ors. Vs. UoI to all officers who were similarly placed but were not petitioners in the above mentioned OAs, was referred to DoP&T. They have informed vide ID No.1385252/19/CR dated 04.09.2019 that the benefit of 3rd MACP in the grade pay of Rs.7600/- in PB-3 granted to the applicants of the above mentioned OAs cannot be extended to the non-petitioners who are similarly placed as such judgments are case specific, without any precedent value."

Yours faithfully,
Sd/-
(Rinku Desgupta)
Under Secretary (Pers.C)"



“No.11/11/2013-Pers.-6-3205

New Delhi, the 04-03-2020

To,
Shri Madan Lal Batra,
R/o Sector-XI, P-118,
Noida-201301(UP).

Subject: Extension of benefit of financial upgradation to the Grade Pay of Rs. 7600/- on completion of 30 years of service as allowed to petitioners in OA No.1622/2014 filed by Shri V.K. Sharma, Under Secretary & Ors. Vs. Union of India and in OA No. 3290/2012 filed by Shri G. S. Bhatti & Ors. Vs. UOI-representation of non-petitioners regarding

Sir,

Please refer to your letter dated 04.10.2019 on the above cited subject.

2. It is informed that the matter regarding extension of benefit of financial upgradation to the Grade Pay of Rs. 7600/- on completion of 30 years of service as allowed to petitioners in OA No.1622/2014 filed by Shri V.K. Sharma, Under Secretary & Ors. Vs. Union of India and in OA No.3290/2012 filed by Shri G.S. Bhati & Ors. Vs. UoI to all officers who were similarly placed but were not petitioners in the above mentioned OAs, was referred to DoP&T. They have informed vide ID No.1385252/19/CR dated 04.09.2019 that the benefit of 3rd MACP in the grade pay of Rs. 7600/- in PB-3 granted to the applicants of the above mentioned OAs cannot be extended to the non-petitioners who are similarly placed as such judgments are case specific, without any precedent value.”

Yours faithfully,
Sd/-

(Rinku Desgupta)
Under Secretary (Pers.C)”

4. The applicants have prayed for the following reliefs:-

- (a) Quash and set aside the Order dated 04.03.2020/22.10.2019 (Annexure A-1) rejecting the claim of the all the applicants in those terms, and declare the action of the respondents to have not released the financial benefit of Grade Pay of Rs. 7600/- as 3rd MACP as illegal, arbitrary and discriminatory.
- (b) Direct the respondents release the financial benefit of the Grade Pay of Rs. 7600 as 3rd MACP to the Applicants with necessary fixation of



pay and pension, consequential arrears of pay, arrears of pension and interest thereon.

(c) Grant any other relief which this Hon'ble Tribunal may be pleased to grant to the applicants under the facts and circumstances of the case."

5. In response to the notice from this Tribunal, the respondents have filed their counter reply. The factual merits of the present case have not been disputed by the respondents. However, Shri Bhaskar, learned counsel for the respondents, submits that though the applicants are similarly placed as the applicants in the aforesaid two OAs, however, the present applicants have been fence sitters and, therefore, the applicants are not entitled for the relief as sought in the present OA. He further submits that the applicants were not accorded the benefits of the aforesaid two judgments for the reasons that the Department of Personnel and Training (in short 'DoP&T) has advised the concerned administrative Ministry that the benefits of the judgments in the aforesaid two OAs were admissible only to the applicants therein in the said two OAs.

6. We have heard the counsels for the parties. We have perused the pleadings on record. It is not in dispute that the applicants are similarly placed as the applicants therein the aforesaid two OAs, namely, OA No.1622/2014, titled as



V. K. Sharma & Ors. Vs. Union of India & Ors. and OA No. 3290/2012, titled as **G.S. Bhatti and Ors. Vs. Union of India and Ors.** It is also not in dispute that the aforesaid Orders/Judgments of this Tribunal in the aforesaid two OAs have attained finality and the same have been given effect to. The only reason as given by the respondents to refuse the benefits of the aforesaid two Orders/Judgments is that the DoP&T has advised that the benefits can be given to the applicants in the aforesaid two OAs only and not to similarly placed persons. Once it is an admitted case that the applicants are similarly placed and the benefits pertain to the grievance of financial benefits under the MACP Scheme and refusal therefore is causing loss to the applicants on month to month basis. Therefore, the argument of learned counsel for the respondents that the applicants have been fence sitters and, therefore, they are not entitled to the reliefs, as sought in the present OA, is not found sustainable in the eyes of law in view of the fact that it is settled law that once an issue has been decided by the competent Court of law, the benefits thereof are required to be extended to all the similarly placed persons and the Government being a model employer is not



expected to compel each and every other similarly placed employees to approach the Tribunal/Court. In this regard, we may refer to the law laid down by the Hon'ble Supreme Court in the case of **Inderpal Yadav vs. Union of India & Others**, reported in 1985 (2) SLR 2481, the relevant portion of which reads as under:-

“.. Therefore, those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of this Court.”

Similar position of law has been reiterated by the Hon'ble Apex Court further in the case of **K.C. Sharma Vs. Union of India**, reported in AIR 1997 SC 3588. Reliance is also placed on the law laid down by Hon'ble Five Judges decision of the Hon'ble Apex Court in the case of **R.K. Sharma vs. Union of India and others**, reported in 1998 (1) (SLJ) SC 35.

7. In view of the aforesaid facts and discussions, we find merit in the OA and the same is allowed. Accordingly, the impugned orders dated 22.10.2019 & 04.03.2020 are quashed and set aside. The respondents are directed to accord the same benefits to the applicants, as accorded to



the applicants in the aforesaid two OAs, namely, OA No.1622/2014, titled as **V. K. Sharma & Ors.** Vs. **Union of India & Ors.** and OA No. 3290/2012, titled as **G.S. Bhatti and Ors.** Vs. **Union of India and Ors.**, as expeditiously as possible and in any case within twelve weeks of receipt of a copy of this Order. No order as to cost.

(R. N. Singh)
Member (J)

(A.K. Bishnoi)
Member (A)

/ravi/pinky/