

Item No. 2



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

**O.A. No.1068/2021
OA No.2501/2021**

This the 14th day of July, 2021

(Through Video Conferencing)

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

O.A. 1068/2021

1. Sh. S.K. Thakral
S/o Ram Dhan Thakral
R/o Flat No.04123, ATS Advantage, Ahimsa Khand,
Indirapuram, Ghaziabad – 201014

2. Sh. H.C. Awasthi
S/o Jagan Nath Awasthi
R/o Tower 8, Flat No. 1201, Orange Country,
Indirapuram, Ghaziabad – 201014

3. Sh. R.K. Gola
S/o Jai Gopal
R/o Flat No. E-9044, Gaur Green City, Vaibhav Khand,
Indirapuram, Ghaziabad – 201014

...Applicants

Versus

1. Union of India
Ministry of Home Affairs,
Through its Home Secretary,
North Block,
New Delhi – 110001

2. The Director,
Intelligence Bureau, (Ministry of Home Affairs),
Government of India,
35, Sardar Patel Marg, Chankya Puri,
New Delhi – 110011

...Respondents

O.A. No. 2501/2019

1. Surya Pal Singh,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Har Pal Singh,
Aged about 72 years,
54, Suryodaya Appts,
Sec. 12, Pkt – 8, Dwarka,
New Delhi – 110078
2. Dinesh Chandra,
DCIO/Tech (Retd.)
Group 'A'
S/p Late J.P. Gupta
Aged about 71 years
E-23 A, Nanakpura,
New Delhi – 21
3. Chaman Lal Mehta,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Dhiraj Rai Mehta,
Aged about 71 years,
C-713, JVTS Garden,
Chhattarpur Extension,
New Delhi – 110074
4. Rajan Kumar Anand,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Gowordhan Dass,
Aged about 70 years
B3/903, Lotus Pond,
Vaibhav Khand, Indirapuram,
Ghaziabad, Uttar Pradesh – 201010
5. Noble Suresh Kumar Chand,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Major V.M. Chand,
Aged about 71 years,

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G.F. -8, Vardan Apartment,
Abhay Khand – 3, Indirapuram
Ghaziabad, Uttar Pradesh

6. Nawab Singh,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Ishwar Singh,
Aged about 71 years,
Plot No. D-S, Sector B-1,
Trans Delhi Signature City (Trowiea City),
Ghaziabad, Uttar Pradesh – 201103
7. Sawaran Lal Matta,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Ram Das Matta,
Aged about 73 years,
Flat No. 8245, Sector C,
Pocket 8, Vasant Kunj,
New Delhi – 110070
8. Maharaj Laxmeshwar Dutt,
DCIO/Tech (Retd.)
Group 'A'
S/o H.K. Dutt
Aged about 70 years
A-44, Shubham Apartments,
Sector 21 C, GH-II,
Faridabad, Haryana – 121001.
9. K.R.R. Verma
DCIO/Tech (Retd.)
Group 'A'
S/o Late T.N. Verma,
Aged about 70 years,
A-33, Shubham Apartments,
Sector 21 C, Phase – III,
Faridabad, Haryana – 121001.

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10. Prem Behari Lal,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Ram Behari Lal,
Aged about 73 years,
F-181, Sarita Vihar,
Delhi – 110076

11. Parminder Singh
DCIO/Tech (Retd.)
Group 'A'
S/o Late Birinder Singh
Aged about 73 years
H.No. 1288/E,
Adarsh Nagar,
V &P.O. Nayagaon,
Distt.- S.A.S. Nagar (Mohali),
Punjab – 160103.

12. Sajal Kumar Chattopadhyay,
DCIO/Tech (Retd.)
Group 'A'
Aged about 73 years,
S/o Late Satyaranjan Chattopadhyay,
B-3/8, Anupam Enclave – II, Saidulajab,
IGNOU Road, New Delhi – 110030

13. D.K. Samajdar,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Mukanda Dev Samajdar,
Aged about 72 years,
Flat No. 28 C, Block –B5,
Dhawalgiri Apartments,
Sector 34, Noida, Uttar Pradesh – 201307

14. Bijay Kumar Sinha,
DCIO/Tech (Retd.)
Group 'A'
S/o Madan Mohan Prasad Sinha,
Aged about 70 years,
B-401, Plot No.13,

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Dwarka Dham Apartment,
Sector 23 Dwarka,
New Delhi

15. Surender Prakash Banyal,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Atma Ram,
Aged about 70 years,
H-33, Gama-2
Greater Noida, Uttar Pradesh - 201308
16. Birender Kumar Singh,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Sandhu Sharan Singh,
Aged about 72 years,
Flat No. 103, Kailash Palace,
Magistrate Colony, Khajpura,
P.O.- B.V. College,
P.S. Rajiv Nagar,
Patna, Bihar - 800014
17. Ram Udar Pandey,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Hira Pandey,
Aged about 70 years
Flat No. 207, Anandi Apartment,
Tapeshwar nagar, Arrow Garden Road,
P.S. Rupaspur,
Patna, Bihar – 800014
18. Gopal Prasad
DCIO/Tech (Retd.)
Group 'A'
S/o Late Babu Saheb,
Aged about 73 years,
Shyam Bhawan, Flat No. 201,
West Boring Canal Road,
Patna, Bihar – 800001.

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19. Upendra Narain Verma,
DCIO/Tech (Retd.)
Group 'A'
S/o Late J.N. Verma,
Aged about 73 years
Flat No. – 405, Maurya Vihar Apartment,
Maurya Path, Bailey Road,
Patna, Bihar – 800014.

20. Bansi Dhar Singh,
Assistant Director (Retd.)
Group 'A'
S/o Late S.N. Singh,
Aged about 70 years,
J-9, Vastu Vihar Colony,
BIT Mesra Road,
P.O. BIT Mesra,
Ranchi, Jharkhand – 835215.

21. Janardan Lal,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Ram Dhani Lal,
Aged about 72 years,
545 KA/SV – 209, Sagar Vihar,
Para, Raja Ji Puram,
Lucknow, Uttar Pradesh – 226017.

22. Indra Pal Singh,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Dashrath Singh,
Aged about 70 years,
C-2001/32 Indira Nagar,
Lucknow, Uttar Pradesh – 226016.

23. Ram Chandra Singh,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Parsan Singh,
Aged about 70 years,
643N/150, Nayak Nagar,



Sitapur Road, Madiyaon, Lucknow,
Uttar Pradesh – 21.

24. Shailendra Nath Mehta,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Shivram Sahai Mehta,
Aged about 73 years,
4/654, Vijayant Khand,
Gomtinagar, Lucknow,
Uttar Pradesh – 226010

25. Prakash Chandra Sahay,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Awadh Bihari Sahay,
Aged about 73 years,
A-504, Purva Whitehall,
Ambalipura, Sarajpur Main Road,
P.O. – Carmelaram, P.S. Bellandur,
Bangalore, Karnataka – 560035.

26. Jwala Prasad Gupta,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Ori Lal Gupta,
Aged about 72 years,
Flat No. 605, Tower – 2,
Sai Pooran Premier,
Parappana Agrahara Road,
Kudlu, Bangalore,
Karnataka – 560068.

27. Parshuram Jee,
Assistant Director Tech (Retd.)
Group 'A'
S/o Late Ramgovind Sah,
Aged about 69 years,
Flat No. NP-204,
Shriram Spandhana Apartments,
Challaghatta, Post Yemlur,
Bangalore, Karnataka – 560037



28. Bhagat Ram Sharma,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Badri Ram Sharma
Aged about 73 years,
H/No 172/10 Prem Bhagat Niwas 'Chaugan',
P.O.- Purana Bazar, Sunder Nagar,
Shimla, H.P.

29. Sivakumaran Melepurath,
DCIO/Tech (Retd.)
Group 'A'
S/o Late P. Kuttykrishna Menon,
Aged about 72 years,
Melepurath, Peremudiyoor (PO),
(Via) Pattambi, District – Palakad,
Kerela – 679303.

30. K. Sridharan,
DCIO/Tech (Retd.)
Group 'A'
S/o V. Kasturi Rangan,
Aged about 70 years,
7A/20, Ramchandra Iyer Street,
Nehru Nagar, Chromepet,
Chennai – 600044.

31. Anand Prakash Bhalla,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Lakhpat Rai Bhalla,
Aged about 70 years
House No. 274, Sector 16,
Panchkula, Haryana

32. Prem Singh Dhanda,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Bhale Ram,
Aged about 73 years
H.No. 1537, A-Block,

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Urban Estate, Jind,
Haryana

33. Alakh Prasad Verma,
DCIO/Tech (Retd.)
Group 'A'
S/o Shri K.N. Verma,
Aged about 73 years,
258-D, Maidan Garhi,
Near Kuber Building,
P.O. – IGNOU Campus,
New Delhi – 110068.

34. Paro Nandan Mistry,
DCIO/Tech (Retd.)
Group 'A'
S/o Late Dahan Mistry,
Aged about 73 years,
B-602, Shankar Tower,
Plot -14, Sector-14,
San Pada, Navi Mumbai – 400705

35. Kilambi Alwar Swamy,
DCIO/G (Retd.)
Group 'A'
S/o Krishnama Chari
Aged about 66 years
Flat no. 02, Samhita Appt.,
Near Green Super Market,
Shirdi Sri Sai Baba Temple Road
Munnepotala, Bengaluru – 37

36. Vikas Shukla
S/o Late Krishna Chandra Shukla
DCIO/Tech (Retd.)
Group 'A'
(S/o Ram Kishore Shukla)
Aged about 42 years
R/o 244, DDA SFS Flats,
Navjeevan Apartments, Pocket -6/3,
Nasirpur, Dwarka,
New Delhi – 110045



37. Kamala Tripathi,
 W/o Late Diwakar Dutt Tripathi
 DCIO/Tech (Retd.)
 Group 'A'
 (S/o Late Shri Shiv Prased Tripathi)
 Aged about 67 years,
 R/o Plot No. B-34A, Sector 19,
 Dwarka New Delhi – 75

38. Sulakshna Mittal
 W/o Late Krishan Chand Mittal
 Assistant Director/Tech (Retd.)
 Group 'A'
 (S/o Late C.R. Mittal)
 Aged about 67 years
 R/o D-16, Shiv Shakti Apartment
 Plot-10, Sector -10, Dwarka,
 New Delhi – 110075

...Applicants

Versus

1. Union of India,
 Through
 The Secretary
 Ministry of Personnel, Public Grievance & Pensions
 The Department of Personnel & Training
 Govt. of India
 Room No. 112, North Block, New Delhi.
2. The Intelligence Bureau
 Through the Director,
 Ministry of Home Affairs,
 Govt. of India
 35, Sardar Patel Marg
 New Delhi – 110021
3. Joint Deputy Director/G
 The Intelligence Bureau
 Ministry of Home Affairs
 Govt. of India
 35, Sardar Patel Marg
 New Delhi – 110021



4. Ministry of Home Affairs
Through The Secretary
Room No. 113, North Block,
New Delhi – 110001
5. Subsidiary Intelligence Bureau, Lucknow
Through Joint Director,
110, Mall Road
Lucknow – 226001
Uttar Pradesh
6. Subsidiary Intelligence Bureau, Chandigarh
Through Joint Director,
Plot No. 1-B Sector 19-A
Madhya Marg
Chandigarh – 160019
7. Subsidiary Intelligence Bureau, Patna
Through Joint Director,
6, Serpentine Road
Daroga Rai Path
Patna – 800001
8. Subsidiary Intelligence Bureau, Shillong
Through Joint Director,
Kench's Trace, P.O. Laban
Shillong – 793004
Meghalaya
9. Subsidiary Intelligence Bureau, Shimla
Through Joint Director,
Dormers Building Shimla, Shimla
Pincode – 171001
Himachal Pradesh
10. Subsidiary Intelligence Bureau, Trivandrum
Through Joint Director,
(Ministry of Home Affairs, Govt. of India)
No. 572 P.O. Mont Fort House,
Bhaktivilasam Road,
Vazhuthacaud, Thiruvananthapuram

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Thiruvananthapuram – 695014
Kerala

11. Subsidiary Intelligence Bureau, Chennai
Through Joint Director,
29, Papanaasam Sivan Salai,
Santhome High Road, My'pore
Chennai – 600004
Tamil Nadu

12. Subsidiary Intelligence Bureau, Mumbai
Through Joint Director,
Gagan Vihar, C-23, Block – E
Bandra Kurla Complex (Bandra East)
Mumbai – 400051
Maharashtra

...Respondents

(Shri Sunil Kumar, Sr. Advocate assisted by Shri Rohini Prasad, learned counsel for the applicants).

(Shri G. S. Virk and Shri Rajeev Kumar, learned counsel for the respondents.)

O R D E R (ORAL)



Justice L. Narasimha Reddy:

By this common order, we dispose of these two OAs (OA No.1068/2021 and OA No.2501/2019) as common questions of fact and law are involved.

2. In these two OAs, the applicants claim the benefit of MACP w.e.f. 01.01.2006. They are the employees who retired from the service of IB, in the Ministry of Home Affairs. According to them, the 6th Central Pay Commission submitted its report on 24.03.2008 and that in turn was accepted by the Government of India on 29.08.2018. It is stated that in the relevant orders passed thereafter, it was clearly mentioned that the pay structure recommended by the 6th Central Pay Commission shall be effective from 01.01.2006, and the MACP is part of that. A representation made by them claiming the benefit of MACP from 01.01.2006 was rejected by the respondents.

3. The applicants contend that identical issue arose before the Armed Forces Tribunal and it was held that the benefit of MACP is available from 01.01.2006. It is stated that the Hon'ble Supreme Court in ***Union of India vs. Balbir Singh Turn & Anr.*** (2018) 11 SCC 99 has taken the view that the MACP shall be effective from 01.01.2006. Reliance is also placed upon the orders passed by the



Hon'ble High Court of Andhra Pradesh at Hyderabad in **M.**

Hara Bhupal vs. Union of India and Ors. W.P.

No.22214/2011 dated 03.04.2018.

4. The respondents filed a detailed counter affidavit. According to them, the MACP Scheme was launched only through specific office memo dated 19.05.2009 and effective from 01.09.2008 and there was absolutely no basis for the applicants to claim the benefit of MACP from 01.01.2006.

5. We heard Shri Sunil Kumar, Sr. Advocate assisted by Shri Rohini Prasad and Shri G. S. Virk and Shri Rajeev Kumar, learned counsel for the respondents.

6. The issue is about the effective date from which, the benefit of MACP shall be extended to the applicants. The controversy existed in this behalf, particularly in its implementation, in the Armed Forces. The AFT took the view that once the pay structure was made applicable from 01.01.2006, the MACP shall also be extended from that date. That view was upheld by the Hon'ble Supreme Court in **Balbir Singh's case** (supra). The plea raised by the Government that the ACP Scheme is precursor to MACP was in force till 31.08.2008, was not accepted.

7. Had the situation remained there, we would have certainly accepted the plea of the applicants and

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granted the relief. In the recent past, the Hon'ble Supreme Court rendered two judgments. One in ***Union of India and ors. vs. M. V. Mohanan Nair*** (2020) 5 SCC 421 and the other in ***Union of India vs. R. K. Sharma & Ors.*** Civil Appeal No.1579/2021 decided on 28.04.2021. After discussing the matter at length and taking into account the judgments rendered in ***Balbir Singh's case*** (supra), the Hon'ble Supreme Court held as under:-

“9. The MACP Scheme was initially notified vide Special Army Instructions dated 11.10.2008. The Scheme was called the Modified Assured Career Progression Scheme for Personnel Below Officer Rank in the Indian Army. After the Resolution was passed by the Central Government on 30.08.2008 Special Army Instructions were issued on 11.10.2008 dealing with revision of pay structure. As far as ACP is concerned Para 15 of the said letter reads as follows:-

“15. Assured Career Progression. In pursuance with the Government Resolution of Assured Career Progression (ACP), a directly recruited PBOR as a Sepoy, Havildar or JCO will be entitled to minimum three financial upgradations after 8, 16 and 24 years of service. At the time of each financial upgradation under ACP, the PBOR would get an additional increment and next higher grade pay in hierarchy.

xx xx xx” Thereafter, another letter was issued by the Adjutant General Branch on 03.08.2009. Relevant portion of which reads as follows:-

“.....The new ACP (3 ACP at 8, 16 and 24 years of service) should be applicable w.e.f. 1 Jan 2006, and the old provns (operative w.e.f. the Vth Pay Commission) would be applicable till 31 Dec. 05. Regular service for the purpose of ACP shall commence from the date of joining of a post in direct entry grade.

xx xx xx” Finally, on 30.05.2011 another letter was issued by the Ministry of Defence, relevant portion of which reads as follows:-

“5. The Scheme would be operational w.e.f. 1st Sep.2008. In other words, financial upgradations as per the provisions of the, earlier ACP scheme (of August 2003) would be granted till 31.08.2008.” Therefore, even as per the understanding of the Army and other authorities up till the issuance of the letter dated

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30.05.2011 the benefit of MACP was available from 01.01.2006.

The inescapable conclusion is that the MACP is operative only from 01.09.2008, and once the applicants have retired before that date, the question of their getting the same benefit does not arise.

8. Though the learned senior counsel submitted that there is a conflict between the judgments of the Hon'ble Supreme Court in Balbir Singh's case on the one hand and R. K. Sharma's case on the other hand, we express our inability to address that question. It is for the Hon'ble Supreme Court itself to address that issue in case it is raised in any proceedings.

9. The OA is accordingly dismissed. There shall be no order as to costs. Pending MAs, if any, shall stand disposed of.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/lg/pj/ns