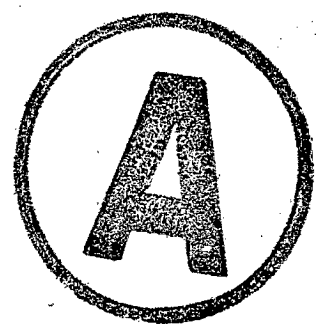
CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 484/2011, 507/2011, 561/2011, 610/2011, 647/2011 and 650/2011



Wednesday, this the 22nd day of February, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

O.A.No.484/2011

1. All India Loco Running Staff Association,
Reg.No.17903, Southern Railway, Trivandrum,
Represented by its Secretary G Sreekantan,
Presently working as Loco Pilot (Mail),
Quilon Railway Station, Residing at: Mariveedu,
Alinthara, Venjaramoodu.P.O., Thiruvananthapuram.

2. Roly M Muttappillil, S/o MM Mani,
Loco Pilot(Mail), Southern Railway,
Ernakulam Junction, Residing at: Muttappillil House,
Kuravilangad Post, Kottayam.

3. C.S.Kishor, A/o Chandrasekharan Nair,
Loco Pilot(Mail), Southern Railway,
Trivandrum Central, Residing at: "Hridyam",
T.C.18/143(3), Plavila, Thirumala.P.O.
Trivandrum-675 006. - Applicants

(By Advocate Mr TC Govindaswamy)

v.

1. Union of India represented by the
General manager, Southern Railway,
Headquarters Office, Park Town.P.O.
Chennai-3.

2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town.P.O., Chennai-3.

3. Senior Divisional Personnel Officer,
Southern Railway, Trivandum Division,
Trivandrum.

4. The Secretary to Government of India,
Ministry of Railways (Railway Board),
New Delhi—10 001. - Respondents

(By Advocate Mr Thomas Mathew Nellimoottil)

O.A.No.507/2011

1. K.Venugopala Pillai, S/o Kunjukrishna Pillai,
Loco Pilot(Mail), Southern Railway/Quilon,
Residing at Railway Quarters No.13, Kollam.

2. P.Vijayan, S/o Padmanabhan Achary,
Loco Pilot(Mail), Southern Railway/Quilon,
Residing at P.N.Sadanam,
Kuzhumathicade.P.O., Kollam. - Applicants

(By Advocate Mr M.P.Varkey)

v.

1. Union of India represented by
General Manager,Southern Railway,
Park Town, Chennai-600 003.

2. Chief Personnel Officer,
Southern Railway, Park Town,
Chennai-600 003.

3. Sr. Divisional Personnel Officer,
Southern Railway,
Trivandrum-695 014. ....Respondents

(By Advocate Mr K.M.Anthru)

O.A.No.561/2011

1. All India Loco Running Staff Association,
Reg No.17903, Southern Railway, South Zone,
Represented by its Secretary Geomy George,
S/o Shri George Cherian, Working as Loco
Pilot (Mail), Shornur Railway Station, Shornur
Residing at: Chithirapuram House, K.V.R.Road,
Chornur-670 121.

2. K.G.Ajithkumar, S/o A Karunakaran,
Loci Pilot(Mail), Southern Railway,
Shornur Railway Station, Shornur, Residing at:
No.162B, Railway Quarters, Ganeshgiri.P.O.
Shornur-679 123.

3. P.M.Prakash, S/o P.K.Madhavan,
Lico Pilot(Mail), Southern Railway,
Shornur Railway Station, Shornur, Residing at:
Railway Quarter No.301-D,
Shornur-679 121. - Applicants

(By Advocate Mr TC Govindaswamy)

v.

1. Union of India represented by the General manager, Southern Railway, Headquarters Office, Park Town.P.O. Chennai-3.

2. The Chief Personnel Officer, Southern Railway, Headquarters Office, Park Town.P.O., Chennai-3.

3. Senior Divisional Personnel Officer, Southern Railway, Palakkad Division, Palakkad-678 002.

4. The Senior Divisional Personnel Officer, Southern Railway, Salem Division, Salem-5.

5. The Secretary to Government of India, Ministry of Railways (Railway Board), New Delhi—10 001. - Respondents

(By Advocate Mr Sunil Jacob Jose)

O.A.No.647/011

1. R.K.Unnikrishnan, S/o Raman Pillai, Station Superintendent, Southern Railway, Parappanangadi, Residing at: Master Villa NO.1, Kallekulangara, Palakkad-678 009.

2. K.B.Muraleedharan, S/o Balachandran, Station Superintendent/TI/Planning, Southern Railway, Palakkad, Residing at: "Pavithram", Amruthanagar, Puthur, Palakkad-678 001.

3. All India Station Master's Association, (Reg.No.NDD/09, New Delhi), South Zone, represented by Chairman, Zonal Action Committee namely R.K.Unnikrishnan. - Applicants

(By Advocate Mr M.P.Varkey)

v.

1. Union of India represented by Chairman, Railway Board, Rail Bhavan, New Delhi-110 001.

2. Chief Personnel Officer,

Southern Railway, Park Town,
Chennai-600 003.

3. Sr. Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat-678 002. ....Respondents

(By Advocate Mr K.M.Anthru)

O.A.No.610/2011

1. V,.Remesh, S/o Bhaskaran,
Loco Pilot (Mail), Southern Railway,
Trivandrum, residing at: Aswathy,
Chirakkarathazham.P.O., Kollam.

2. T.Sankaranarayanan, S/o Thiruvengadam,
Loco Pilot (Mail), Southern Railway/Nagarcoil,
Residing at: 153/36, Vayal Street,
Vadalivilai, Kottar, Nagercoil.

3. M.G.Sajikumar, S/o Gopinathan Pillai,
Loco Pilot (Mail), Southern Railway/Trivandrum,
Residing at: TC 8/1082(1), Mythree Nagar,
Valiyavila, Trivandrum.

4. P.Selvakumar, S/o Petchimuthu,
Loco Pilot (Mail), Southern Railway/Nagercoil,
Residing at Plot No.102, 443 C-I, Kookambiga Illom
Ist Cross Street, Palayamkottai, Thirunelveli.

5. K.Satheesan, S/o Kuttappan,
Loco Pilot (Mail), Southern Railway/Quilon,
Residing at Sruthy, Thuruthikkara.P.O.
Kunnathur, Kollam.

6. R.Rajendran, S/o Raman Pillai,
Loco Pilot (Mail), Southern Railway/Quilon,
Residing at Thundil Bhavan,
Thirumullavaraom.P.O., Kollam.

7. S.Ravichandran, S/o Muthu,
Loco Pilot (Mail), Southern Railway/Trivandrum,
Residing at Gurukripa, TC 48/631,
Ambalathara, Thiruvananthapuram.

8. K.V.Devassy, S/o Varghese,
Loco Pilot (Mail), Southern Railway/Ernakulam,
Residing at: Kovathil House, Sahakarana Road,
Ponnurunny, Vytilla, Ernakulam.

9. B.Subhash Bhasi, S/o Bhaskaran,
Loco Pilot (Mail), Southern Railway/Trivandrum,
Residing at Souparnika, Aswathi Gardens,

Thiruvananthapuram.

10. Jenson Thomas, S/o Thomas,
Loco Pilot (Mail), Southern Railway/Ernakulam,
Residing at Thekkekara House, Vappalasseri.P.O.
Angamali, Ernakulam Dist.

11. T.J.Robert, S/o Thommi Joseph,
Loco Pilot (Mail), Southern Railway/Ernakulam,
Residing at Thipparambil House, Green Lane,
SSKS Road, Vaduthala.P.O., Kochi.

12. G.S.Abraham, S/o Samuel,
Loco Pilot (Mail), Southern Railway/Quilon,
Residing at TRA-1, Kotturazhikom,
Mundakkal West, Kollam.

13. B.Pradeep, S/o Balakrishnan Nair,
Loco Pilot (Mail), Southern Railway/Trivandrum,
Residing at Devi Vihar, Chozhiyakkad,
Channanikad.P.O., Kottayam Dist.

14. K.Mohanan Pillai, S/o Kochunni Kurup,
Loco Pilot (Mail), Southern Railway/Quilon,
Residing at Darsanam, Edavattom,
Karuvelil P.O., Ezhukone, Kollam.

15. AC.Gurunath, S/o Kuttalam Pillai,
Loco Pilot (Mail), Southern Railway/Trivandrum,
Residing at YNA-63, Yamuna Nagar,
Manacaud, Thiruvananthapuram.

16. Lyndon Charles, S/o Bennet,
Loco Pilot (Mail), Southern Railway/Trivandrum,
Residing Near LMS Compound,
Cheruvarakonam, Parassala, Trivandrum. - Applicants

(By Advocate Mr M.P.Varkey)

v.

1. Union of India represented by
General Manager,Southern Railway,
Park Town, Chennai-600 003.

2. Chief Personnel Officer,
Southern Railway, Park Town,
Chennai-600 003.

3. Sr. Divisional Personnel Officer,
Southern Railway,
Trivandrum-695 014. ....Respondents

(By Advocate Mr P Haridas)

O.A.No.650/2011

1. Pankajakshan.M, S/o N.V.C.Menon,
Goods Guard, Southern Railway,
Palakkad Junction, Palakkad,
Residing at: "Suramya", House No.16/220,
Koppam, Palakkad.

2. K.V.Sreedharan, S/o Narayanan Nair,
Mail Guard, Calicut Dept. Palakkad Jn.
Kozhikode.

3. K.Suresh Kumar, JC 662,
Mail Guard, Shoranur Depot,
Palakkad Division, Palakkad. - Applicants

(By Advocate Mr U Balagangadharan)

v.

1. Union of India represented by Secretary,
Railway Board, Rail Bhavan, New Delhi.

2. The General Manager,Southern Railway,
Park Town, Chennai.

2. Chief Personnel Officer,
Southern Railway, Park Town,
Chennai.

3. The Sr. Divisional Personnel Officer,
Southern Railway, Palakkad Division,
Palakkad . ....Respondents

(By Advocate Ms P.K.Radhika)

This applications having been finally heard on 15.02.2012, the Tribunal on 22.02.2012 delivered the following:

ORDER

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

As the legal issue involved is one and the same in all these OAs, these are dealt with together and this common order is passed.

2. The brief facts of the cases are as under:-

OA No. 484 of 2011: The first applicant in this OA is All India Loco Running Staff Association while the second and third are Loco Pilots (Mail) working in the Trivandram Division of Southern Railways. Their case is that prior to 01-01-2006 the posts and pay scales of Loco Pilots Cadre were as under:-

(i-a) Asst. Loco Pilot (Initial Grade) Rs. 3050 – 4590
(i-b) Sr. Asst. Loco Pilot (Non Functional)Rs 4000 – 6000

(ii-a) Loco Pilot Shunting Grade II (Functional) Rs 4000 – 6000
(ii-b) Loco Pilot Shunting Grade I (Non Func'l)Rs 5000 – 8000

(iii-a) Loco Pilot (Goods) Grade II (Functional)Rs 5000 – 8000
(iii-b) Loco Pilot (Goods) Grade I (Non Func'l) Rs 5500 – 9000

(iv-a) Loco Pilot (Passenger) Grade II (Func'l) Rs 5500 – 9000
(iv-b) Loco Pilot (Passenger) Grade II (NF) Rs 6000 – 9800

(v) Loco Pilot (Mail) Functional Rs 6000 – 9800

With effect from 01-01-2006, the pay scales of the above posts were revised as under:-

(i) Asst Loco Pilot –	Rs 5200 – 20200 + G.P. Rs 1900
(ii)Loco Pilot (Shunting)	Rs 5200 – 20200 + G.P. Rs 2400
(iii)Loco Pilot (Goods)	Rs 9300 – 34800 + G.P. Rs 4200
(iv)Loco Pilot (Passenger)	*Rs 9300 – 34000 + G.P. Rs 4200
(v)Loco Pilot (Mail)	**Rs 9300 – 34000 + G.P. Rs 4200

(* - with an allowance of Rs 500 not constituting part of pay.

** with an allowance of Rs 1000 not constituting part of pay.)

3. Thus, the pay scales of Rs 5000 – 8000, 5,500 – 9000 as also 6000 – 9800 respectively for the posts of posts of Loco Pilots (Goods), Loco Pilots (Passenger) and Loco Pilots (Mail) stood merged into one single broad band pay

scale of Rs 9300 – 34000 plus G.P. Of Rs 4,200/-.

4. Earlier, the Government had introduced Assured Career Progression – ACP for short, as per which two financial upgradations were admissible in a span of 24 years, subject to certain conditions attached thereto. The said A.C.P. was replaced by Modified Assured Career Progression (M.A.C.P for short) whereby three financial upgradations are made available, subject to certain conditions specified in the scheme. According to para 5 of the scheme, promotions to posts the pay scales of which got merged with that of the feeder grade be ignored for the purpose of M.A.C.P. Thus, the Asst. Loco Pilots on promotion to the post of Loco Pilots (Goods) in the scale of Rs 5000 – 8000 are held to have been afforded one promotion. Further promotion to the higher posts carrying pay scale of Rs 5,500 – 9000 or above which got merged in one broad band pay scale of Rs 9300 – 34800 with Grade Pay of Rs 4,200 have to be ignored in accordance with the provisions of clause 5 of the MACP Scheme. Thus, the claim of the applicants in this OA is that the 2nd MACP and 3rd MACP are available to them.

5. OA No. 507 of 2011: Two applicants in this OA are aggrieved by Annexure A-5 letter/Annexure A-3 Memorandum by which the financial upgradation granted to them from01-09-2008 under Annexure A-1 MACP Scheme has been treated as cancelled. The applicants were appointed as Diesel Assistant in the pay scale of Rs 950 – 1500/3050-4590 in the Trivandrum Division in 1986 and they were promoted as Goods Drivers in the scale of Rs 1350 – 2200/5000 – 80000 in September, 1991 and later on further promoted as Passenger Drivers in the scale of Rs 1600 – 2660/5500 – 9000 in July 1997. They have again promoted to the post of Mail Drivers in the scale of Rs 6000 – 9800 in September, 2001 and December 2001 respectively. On the merger of

the three pay scales i.e. 5000 – 8000, 5500 – 9000 and 6000-9800 into one broad band scale of Rs 9300 – 34800 plus G.P. Of Rs 4,200, promotions to these grades, under clause 5 of the MACP Scheme are to be ignored. Respondents had exactly followed the same procedure initially and afforded the 2nd MACP to the applicants, but later on the basis of a clarification issued by the CPO, vide Annexure A-5, by the impugned order at Annexure A-3, they have cancelled the MACP granted to them vide Annexure A-1. The impugned order of cancellation of MACP is sought to be quashed and set aside.

6. OA No. 561 of 2011: This application is analogous to OA No. 484 of 2011 and the applicants herein who are loco pilots belong to the Palghat/Salem Division. Other particulars as given in respect of OA No. 484 of 2011.

7. OA No. 610 of 2011: There are in all 16 applicants in this OA, of whom the first 13 are Loco Pilots (Mail), while the remaining three, Loco Pilots (Passenger). These belong to Trivandrum Division. Their case is identical to that of OA No. 507 of 2011 in that they got their promotion from the post of Diesel Assistant to Loco Pilot Goods, followed by Loco Pilot Passenger and thereafter, save Applicants No. 14, 15 and 16 were further promoted to the post of Loco Pilot Mail. They have also been granted two MACP on the basis of clause 5 of the MACP Scheme, whereas, the same was cancelled by the impugned order vide Annexure A-3, on the basis of the clarification given by the CPO, vide Annexure A-5. Hence, they have filed this OA for quashing of the impugned order at Annexure A-3 and for a direction to restore the MACP granted vide Annexure A-1.

8. OA No. 647 of 2011: There are three applicants in this OA, two of whom are serving as Station Superintendents, while the third applicant is the All India

Station Masters' Association. Applicant No 1 was appointed as Asst. Station Master in the scale of Rs 330 – 560 in 1983 , promoted as Station Master in 1986 in the scale of Rs 425 – 640 (Rs 5,000 – 8000 in the Revised Pay Scale as per 1997 revised pay Rules) and was further promoted to the grade of Rs 5,500 – 9000 in 1998. The second applicant was as such appointed in June, 1983 as ASM, promoted to the higher grade of Rs 5000 – 8000 and 5500 – 9000/. By Annexure A-1 order dated 19-11-2009, these were granted the MACP III MACP effective from 01-09-2008. On the basis of a clarification issued by the CPO, Southern Railways, vide Annexure A-4, these have been issued with a show cause notice in respect of recovery of payment made to them in the wake of grant of the III Financial Upgradation. This order, vide Annexure A-3 is under challenge along with the Annexure A-4 Clarification.

9. OA No. 650 of 2011 : Of the applicants in this OA (three in number), the first applicant joined the Railways as Goods Guard in 1987 and was promoted as Passenger Guard on 01-03-1993 and then as Sr. Passenger Guard on 09-08-2000 and thereafter, he stood promoted as Mail Guard on 02-05-2006. The second applicant commenced his service as Commercial Clerk but later on he was appointed as Goods Guard through Direct Recruitment basis in 1986 and was promoted as Passenger Goods Guard on 15-01-1990 and later on promoted as Mail Guard on 18-07-1994. Similarly the Third applicant joined the services as Commercial Clerk on 25-09-1985, but appointed through Railway Recruitment Board as Goods Guard on 19-08-1987 and was promoted as Passenger Guard on 25-02-1994. Later on, he was promoted as Sr. Passenger/Mail Guard on 03-08-2001. The pay scales of Passenger Guard, Sr. Passenger Guard and that of the Mail Guard were respectively, Rs 5000 – 8000, Rs 5500 – 9000 and Rs 5500 – 9000. In the wake of the introduction of MACP scheme, the first applicant was granted the second financial upgradation w.e.f.

01-09-2008 in the grade pay of Rs 4600 under MACP. Second and third applicants were also granted the third Financial Upgradation from 01-09-2008, which however, is sought to be withdrawn and the extra amount paid in the wake of the financial upgradation recovered.

10. In all the above cases, the stand of the respondents is that as per para 8 of the MACP Scheme, promotions earned in the post of carrying same Grade Pay in the promotional hierarchy as per the Recruitment Rules shall be counted for the purpose of M.A.C.P. In all the cases, be it station masters or loco pilots, the promotions granted to the individuals have all been as per the Recruitment Rules and hence, they cannot be discounted while working out the entitlement of the individuals for MACP. Thus, their reply contained the above spinal contention, the rest, of course relating to the facts of the respective cases.

11. Counsel for the applicants in symphonic and chorus voice submitted that para 5 of the Scheme is applicable to their cases, for there has been a merger of three pay scales (Rs 5000 – 8000, 5500 – 9000 and 6500 – 10500) and their promotions in the past save the earliest promotion to Rs 4500 – 7000 fell within the merged pay scales. They have asserted, of course, with all humility under their command that the illustration at para 5(b) fully applies in their case.

12. Counsel for the respondents on the other hand in his usual sober manner, submitted that the promotions granted to the applicants are all as per the recruitment rules and thus, para 8 would apply.

13. Arguments were heard and documents perused. Para 5 and 8 of the M.A.C.P. Scheme read as under:-

"5. The recommendations of the Screening committee shall be placed before Railway Board(MS) in cases where the Committee is constituted in the Railway Board/Ministry or before the Head of the organisation/competent authority in other cases for approval.

6. In order to prevent undue strain on the administrative machinery, the Screening Committee shall follow a time schedule and meet twice in a financial year – preferably in the first week of January and first week of July of a year for advance processing of the cases maturing in that half. Accordingly, cases maturing during the first half (April-September) of a particular financial year shall be taken up for consideration by the Screening Committee meeting in the first week of January. Similarly, the Screening Committee meeting in the first week of July of any financial year shall process the cases hat would be maturing during the second half (October-March) of the same financial year.

7. However, to make the MACP scheme operational, the Cadre Controlling Authorities shall constitute the first Screening Committee within a month from the date of issue of these instructions to consider the cases maturing upto 30th June, 2009 for grant of benefits under the MACPS.

8. The scheme would be operation w.e.f. 01.09.2008. In other words, financial upgradations as per the provisions of the earlier ACP Scheme (of October, 1999) would be granted till 31.08.2008."

14. At the very outset, it is to be made clear that the above two provisions may appear to be conflicting with each other whereas, it is not so. Even if these are conflicting, what is expected is to read them harmoniously without making any of them otiose or unworkable. This is the settled law of interpretation, as held by the Apex Court in the case of **Bhakra Beas Management Board vs Krishan Kumar Vij** (2010) 8 SCC 701 wherein, the Apex court has observed as under:-

> 32. It has been stated by Lord Dunedin, in *Murray v. IRC*, AC that:
>
> *"... It is our duty to make what we can of statutes, knowing that they are meant to be operative, and not inept, and nothing short of impossibility should in my judgment allow a Judge to declare a statute unworkable."*

15. Continuing further, the Apex Court also has observed that while interpreting the provisions of any law, such interpretation should be to secure the

object. Thus, observed the Apex Court -

> The principle was reiterated by him in a later judgment in *Whitney* v. *IRC*, AC at where he observed:
>
> *"... A statute is designed to be workable, and the interpretation thereof by a court should be to secure that object, unless crucial omission or clear direction makes that end unattainable."*

16. Consolidating the above, the Apex Court then observed -

> *"33. The aforesaid observations make it abundantly clear that the courts will, therefore, reject the construction which is likely to defeat the plain intention of the legislature even though there may be some inexactitude in the language used. If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation should be avoided. In view of this, to attain the fruitful results of the 1990 Order we have to give it a meaningful and proper construction which would achieve the object for which it was passed, rather than to give a narrower construction which may defeat the very purpose of passing the said order."*

17. Now, the purpose of financial upgradation as contained in the original ACP Scheme or for that matter in the modified ACP scheme is to afford additional financial benefits when no promotions are possible. Again, yet another law of service jurisprudence in matter of pay, as held by the Apex Court in the case of **Gurcharan Singh Grewal vs Punjab State Electricity Board** (2009) 3 SCC 94 is "a senior cannot be paid a lesser salary than his junior."

18. It is with the above broad principles of interpretation, that the two provisions i.e. para 5 and para 8 of the scheme are to be interpreted. Para 5 talks of promotions granted in the past to some posts, the pay scales of which have since been merged and the said para requires that such promotions granted should be ignored for the purpose of MACP. Para 8, on the other hand states that if there be two posts carrying the same grade pay and one is the promotional post of the other, and if promotion to such post takes place, the same shall be taken into account for the purpose of MACP. There may be a

seeming conflict between the two provisions, whereas, it is not so. The difference in the two is that para 5 applies to a situation where there is merger of two or more pay scales, while such a merger is not there in respect of the pay scales of promotional post and the feeder posts in respect of para 8. The two provisions are in fact functioning in two different planes and are compatible.

19. The underlying reason in such provisions (a) to ignore the promotions granted when the two or more pay scales have been merged vide para 5 of the Scheme (b) but to take into account the promotions even if grade pay is the same in respect of two promotions vide para 8 is not far from comprehension.

20. Where there is a merger of pay scales, in future cases, promotion from the feeder grade would be only in the merged pay scale which would constitute only one promotion making eligible the persons for one or two MACPs thereafter , whereas, for the past cases, unless the promotions are ignored, the same would account for two or more promotions which would disentitle them from the benefit of MACP. In so far as the other case referred to in para 8 of the scheme, there being no merger of pay scales, be it the past promotion or future promotion, entitlement or otherwise to MACP would be identical. If the promotions are to be accounted for in respect of merged posts whose pay scales have been merged into a single one, then, such a situation would result in a calamitous disparity in the pay of the seniors and juniors (juniors getting more pay than the seniors!). And, as held in the case of **Gurcharan Singh Grewal** (supra) such a situation cannot be allowed to permeate.

21. The respondents were right when they had earlier granted MACP to the applicants ignoring the promotions granted earlier as such promotions fell under the provisions of para 5 of the scheme. It is only due to the erroneous

clarification issued by the CPO that the respondents have taken action for recovery of alleged excess payment. We render our finding here that the applicants are all entitled to the MACP already awarded and withdrawal of the same and effecting recovery on account of the withdrawal are thoroughly illegal and unjust.

22. In view of the above, all the O.As **succeed**. The grant of MACP in all such cases was in order and rescinding of the said order under MACP and consequent recovery are declared illegal. Respondents are directed to ensure that the financial upgradation granted under the MACP scheme to all the applicants in the above O.As are restored and amounts if any recovered shall be refunded forthwith. As the legal issue involved in this case is discussed and decided, identical matters should also be dealt with by the respondents accordingly, without forcing the employees to rush to the Tribunal for an identical relief. That would be keeping in tune with the recommendations of the V Central Pay Commission in para 126.5 thereof which reads as under:-

> *"126.5 – Extending judicial decisions in matters of a general nature to all similarly placed employees. - We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others v. UOI & others (O.A. Nos. 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh v. UOI, [(1992) 19 ATC 94 (SC)], dated 20-7-1998; K.I. Shepherd v. UOI [(JT 1987 (3) SC 600)]; Abid Hussain v. UOI [(JT 1987 (1) SC 147], etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature*

applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee."

23. It is worth citing at this juncture the observations of the Apex Court in the case of **Lakshmi Ram Bhuyan vs Hari Prasad Bhuyan** (2003) 1 SCC 197 wherein, the Apex Court has observed -

"An inadvertent error emanating from non-adherence to rules of procedure prolongs the life of litigation and gives rise to avoidable complexities. The present one is a typical example wherein a stitch in time would have saved nine."

24. No costs.

K.NOORJEHAN
ADMINISTRATIVE MEMBER

Dr K.B.S.RAJAN
JUDICIAL MEMBER

trs