

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

(Reserved on 19.01.2015)

(16)

O.A No. 060/00326/2014 Date of decision - 28.1.2015.

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)

1. Tarsem Singh employees no. 502855/LMS S/o Sh. Stapal Singh, aged 44 years, R/o 409/4, Ghuman Nagar-B, Patiala (Punjab).

2. Surya Narain S/o Ram Kewal, employee No. 502685, working as TM/FTR-III, in TMS shop.

3. Darshan Singh S/o Nachhattar Singh, employee No. 502680, working as TM/FTR-III, in TMS shop.

4. Sewa Singh S/o Matwal Singh, employee No. 503955, working as TM/FTR-III, in TMS shop.

5. Shamsher Singh s/o Harchand Singh, employee no. 503836, working as TM/FTR-III, in TMS shop.

6. Gurcharan Singh S/o Rattan Singh, employee no. 504479, working as TM/FTR-III, in TMS shop.

7. Vikas Bhalla S/o Tribhawan Bhalla, employee No. 504199, working as TM/FTR-III, in TMS shop.

8. Bhag Singh S/o Bhopal Singh, employee no. 400477, working as TM/FTR-III, in TMS shop.

9. Mukh Lal Ram S/o Pati Raj Ram, employee no. 504260, working as TM/FTR-III, in TMS shop.

10. Sunder Singh S/o Bhopal Singh, employee No. 503664, working as TM/FTR-III, in TMS shop.

11. Sarabjit Singh S/o Nasib Singh, employee no. 502678, working as TM/FTR-III, in TMS shop.

12. Manbar Singh S/o Narain Singh, employee no. 501359, working as TM/FTR-III, in TMS shop.

13. Gurtej Singh S/o Bachan Singh, employee no. 400400, working as TM/FTR-III, in TMS shop.

14. Balbir Singh s/o Chand Singh, employee No. 503803, working as TM/FTR-III, in TMS shop

15. Hardam Singh s/o Bansi Lal, employee No. 503962, working as G/FTR-III, in TMS shop

16. Sunil Kumar s/o Rattan Singh, employee No. 503911, working as TM/FTR-III, in TMS shop

17. Sukhdev Singh s/o Dayal Singh, employee No. 502679, working as TM/FTR-III, in TMS shop

18. Darshan Singh s/o Jaswant Singh, employee No. 503652, working as TM/FTR-III, in TMS shop

19. Kuldeep Singh s/o Gurdev Singh, employee No. 504307, working as TM/FTR-III, in TMS shop

20. Rajinder Singh s/o Pakhar Singh, employee No. 504234, working as TM/FTR-III, in TMS shop

21. Paramjit Singh s/o Mehar Singh, employee No. 504139, working as TM/FTR-III, in TMS shop

22. Birbal s/o Churu Ram, employee No. 502391, working as TM/FTR-III, in TMS shop

23. Manjit Kaur w/o G.S. Jassal, employee No. 503685, working as TM/FTR-III, in TMS shop

24. Sushma Devi w/o Satpal, employee No. 503270, working as G/FTR-III, in TMS shop

25. Narinder Singh s/o Amarjit Singh, employee No. 503864, working as TM/FTR-III, in TMS shop

26. Sarabjit Singh s/o Joginder Singh, employee No. 504203, working as TM/FTR-III, in TMS shop

27. Vijay Pal s/o Hari Dev, employee No. 503686, working as TM/FTR-III, in TMS shop

28. Chander Bhan s/o Nihal Singh, employee No. 504306, working as TM/FTR-III, in TMS shop

29. Gurmeet Singh s/o Inder Singh, employee No. 503896, working as TM/FTR-III, in TMS shop

30. Surinder Kumar s/o Lal Mohan, employee No. 400730, working as TM/FTR-III, in TMS shop

31. Naresh Kumar s/o Banarsi Dass, employee No. 503083, working as MCT/FTR-III, in TMS shop

32. Dalwinder Singh s/o Chattar Singh, employee No. 502689, working as TM/FTR-III, in TMS shop

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33. Vinod Kumar s/o Mohan Singh, employee No. 501832, working as TM/FTR-III, in TMS shop
34. Gurmukh Singh s/o Norata Singh, employee No. 504202, working as TM/FTR-III, in TMS shop
35. Lalita Parsad s/o Gobind Ram, employee No. 400491, working as TM/FTR-III, in TMS shop
36. Pritam Singh s/o Jit Singh, employee No. 400746, working as TM/FTR-III, in TMS shop
37. Jarnail Singh s/o Sodagar Singh, employee No. 504147, working as G/FTR-III, in HTS shop
38. Chattarpal Singh s/o Avtar Singh, employee No. 503200, working as G/FTR-III, in HMS shop
39. Kushalpal Singh s/o Sukhram employee No. 804150, working as RIGGER-III, in HMS shop
40. R.P. Singh s/o Piara Singh, employee No. 503175, working as Welder-III, in HMS shop
41. Ravinder Kumar s/o Rattan Singh, employee No. 503947, working as G/FTR-III, in LMS shop
42. Baldeep Singh s/o Gurdev Singh, employee No. 502918, working as MCT-III, in CBS shop
43. Rajinder Singh s/o Bhag Singh, employee No. 503719, working as MCT-III, in CBS shop
44. Gurdhian Singh s/o Bhag Singh, employee No. 503633, working as MCT-III, in CBS shop
45. Jasbir Singh s/o Nishan Singh, employee No. 503986, working as MCT-III, in CBS shop
46. Suresh Kumar s/o B.N. Upadhyay, employee No. 504161, working as MCT-III, in CBS shop
47. Mahesh Kumar s/o Mehar Chand, employee No. 502513, working as MCT-III, in CBS shop
48. Sanjeev Kumar s/o Devi Dayal, employee No. 502884, working as MCT-III, in CBS shop
49. Sukhwinderjit Singh s/o Ishar Singh, employee No. 500219, working as MCT-III, in CBS shop.
50. Chanan Singh s/o Jati Ram, employee No. 703738, working as ELT/FTR -III, in MRS shop
51. Ramesh Chand s/o Nanak Chand, employee No. 303682, working as ELT/FTR -III, in MRS shop
52. Sarwan Kumar s/o Soveran Singh, employee No. 504380, working as DSL/FTR -III, in LRS shop

53. Sukhwinder Singh s/o Pritam Singh, employee No. 503611, working as C/D -III, in LRS shop

54. Sukhwinder Singh s/o Dalbir Singh, employee No. 503834, working as C/D -III, in LRS shop

55. Narinder Singh s/o Sewa Singh, employee No. 502765, working as DS/FTR-III, in LRS shop

56. Jatinder Sharma s/o Mangat Ram, employee No. 502766, working as DSL/FTR, in LRS shop

57. Amrik Singh s/o Lachhman Singh, employee No. 502740, working as DSL/FTR, in LRS shop

58. Baljeet Singh s/o Sarjan Singh, employee No. 502745, working as WELDER, in LRS shop

59. Gurcharan Singh s/o Pritam Singh, employee No. 503534, working as CARPAINTER, in LRS shop

60. Satnam Singh s/o Gurdev Singh, employee No. 502940, working as Carpenter, in LRS shop

61. Baljinder Singh s/o Sant Singh, employee No. 503275, working as DSL/FTR, in LRS shop

62. Harmesh Kumar s/o Mangat Ram, employee No. 502770, working as DS/FTR, in LRS shop

63. Ajaib Singh s/o Ajmer Singh, employee No. 502739, working as DSL/FTR, in LRS shop

64. Kirpal Singh s/o Sardara Singh, employee No. 502761, working as DSL/FTR, in LRS shop

65. Amrik Singh s/o Teja Singh, employee No. 504205, working as DSL/FTR, in LRS shop

66. Gulzar Khan s/o Majid Khan, employee No. 502769, working as DSL/FTR, in LRS shop

67. Sukhwant Singh s/o Gurbax Singh, employee No. 502751, working as Painter, in LRS shop

68. Gamdur Singh s/o Rachana Ram, employee No. 503966, working as Painter, in LRS shop

69. Barkha Ram s/o Rulia Ram, employee No. 504367, working as Welder, in LRS shop

70. Mohan Singh s/o Bahadur Singh, employee No. 502715, working as Welder in LRS shop.

71. Shamim Ahmed s/o Sagir Ahmed, employee No. 503980, working as DSL/FTR, in LRS shop

72. Karam Chand s/o Ram Sarup, employee No. 503778, working as Welder, in LRS shop

73. Vijay Kumar s/o Mangal Ram, employee No. 502757, working as DSL/FTR, in LRS shop
74. Sohan Singh s/o Nihal Singh, employee No. 503849, working as WELDER in LRS shop
75. Resham Singh s/o Baldev Singh, employee No. 503707, working as DSL/FTR, in LRS shop
76. Harchand Singh s/o Gurdev Singh, employee No. 503936, working as MCT in ABS shop
77. Baldev Singh s/o Ruldu Singh, employee No. 502732, working as Welder, in ABS shop
78. Paramjit Singh s/o Bhag Singh, employee No. 504149, working as DSL/FTR, in ABS shop
79. Tarlochan Singh s/o Harnam Singh, employee No. 502624, working as G/FTR, in LMS shop
80. Rachhpal Singh s/o Joginder Singh, employee No. 503952, working as G/FTR, in HMS shop
81. Sukhvinder Pal Singh s/o Sh. Balbir Singh, employee No. 503808, working as TM/FTR, in TMS shop
82. Pritpal Singh s/o Surjit Singh, employee No. 503948, working as G/FTR, in HMS shop
83. Amarjit Singh s/o Gulzari Lal, employee No. 503787, working as Welder, in ABS shop
84. Gurmit Singh s/o Joga Singh, employee No. 504335, working as G/FTR, in HMS shop
85. Paramjit Singh s/o Majir Singh, employee No. 501317, working as C/D-III, in HMS shop
86. Gurpal Singh s/o Didar Singh, employee No. 502903, working as G/FTR, in HMS shop
87. Avtar Singh s/o Jagir Singh, employee No. 503837, working as G/FTR, in HMS shop
88. Balkar Singh s/o Bharpur Singh, employee No. 503981, working as G/FTR, in HMS shop
89. Gurmeet Singh s/o Gurcharan Singh, employee No. 501840, working as Welder-III, in HMS shop
90. Sukhpal Singh s/o Gurcharan Singh employee No. 502729, working as Welder-III, in HMS shop

91. Joginder Singh s/o Gurmukh Singh, employee No. 502200, working as Riger -III, in HMS shop

92. Sukhwinder Singh s/o Gurdial Singh, employee No. 503679, working as G/FTR, in HMS shop

93. Balwinder Singh s/o Jagan Singh employee No. 503956, working as Rigger-III, in HMS shop

94. Harinder Singh s/o Sukhdev Singh, employee No. 504470, working as G/FTR, in HMS shop

95. Lalit Mohan s/o Hari Krishan, employee No. 502724, working as Welder-III, in HMS shop

96. Kashmir Singh s/o Bishan Dass, employee No. 502815, working as Welder-III, in HMS shop

97. Dhiraj Singh s/o Harpal Singh, employee No. 503180, working as Welder-III, in HMS shop

98. Naresh Kumar s/o Piara Lal, employee No. 502942, working as Welder-III, in HMS shop

99. Satpal s/o Gulzar Singh, employee No. 503882, working as Welder-III, in HMS shop

100. Sukhdev Singh s/o Gian Singh, employee No. 504223, working as MCT-III, in HMS shop

101. Kamal Sigh s/o Gopal Singh, employee No. 604769, working as Cook-III, in HMS Civil/Eng.

102. Roshan Lal s/o Dev Signh, employee No. 503645, working as DSL/FTR-III, in PPS shop

103. Harbilas Singh s/o Narinjan Singh, employee No. 504165, working as DSL/FTR, in PPS shop

104. Subhash Sharma s/o Shital Mistry, employee No. 502717, working as DSL/FTR-III, in PPS

105. Jarnail Singh s/o Didar Singh, employee No. 502817, working as DSL/FTR-III, in PPS

106. Ajaib Singh s/o Late Sh. Phool Singh, employee No. 504164, working as DSL/FTR-III, in PPS

107. Paramjeet Singh s/o Santa Singh, employee No. 502742, working as DSL/FTR-III, in PPS

108. Chulhai Parsad s/o Bola Ram, employee No. 503642, working as DSL/FTR-III, in PPS

109. Pankaj Kapoor s/o Mohan Lal, employee No. 503643, working as DSL/FTR-III, in PPS

110. Amrjit Singh s/o Gurbax Singh, employee No. 503266, working as DSL/FTR-III, in PPS

111. Balwinder Kumar s/o Sh. Faqiria Ram, employee No. 502790, working as DSL/FTR-III, in TRS

112. Kulwant Singh s/o Jagdeep Singh, employee No. 502789, working as DSL/FTR-III, in TRS

113. Kuldeep Singh s/o Ravi Dayal, employee No. 502713, working as DSL/FTR-III, in TRS

114. Subhash Kumar s/o Dwarka Dass, employee No. 502720, working as DSL/FTR-III, in TRS

115. Shyamvir Singh s/o Ganga Sahai, employee No. 504399, working as DSL/FTR-III, in TRS

116. Suresh Kumar Tripathi s/o S.L. Tripathi, employee No. 503628, working as DSL/FTR-III, in TRS

117. Darshan Singh s/o Gurdev Singh, employee No. 604763, working as DSL/FTR-III, in TRS

118. Ravinder Bisht s/o Parduman Singh, employee No. 504300, working as T&C/FTR-III, in TRS

119. Subash Chand s/o Gurcharn, employee No. 400561, working as T&C/FTR-III, in TRS

120. Mohinder Singh s/o Rulda Ram, employee No. 901319 working as MW/FTR-III, in PMS

121. Gurjiwan Singh s/o Baldev Singh, employee No. 504155, working as MW/FTR-III, in CMS

122. Surinder Singh S/o Joginder Singh, employee No. 502915, working as MCT-III, in LMS III

123. Parmjit Singh s/o Sohan Singh, employee No. 502872, working as MCT-III, in LMS III

124. Kashmir Singh s/o Pritam Singh, employee No. 503800, working as MCT-III, in LMS III

125. Harminder Singh s/o Hernek Singh, employee No. 502873, working as MCT-III, in LMS III

126. Arjan Dev s/o Vasdev Sharma, employee No. 502886, working as MCT-III, in LMS III

127. Ashok Kumar s/o Narain Dass, employee No. 502883, working as MCT-III, in LMS III

128. Gurdep Singh s/o Chhajja Singh, employee No. 504158, working as MCT-III, in LMS III

129. Sukhdev Singh s/o Aman Singh, employee No. 503650, working as MCT-III, in LMS III

130. Harpal Singh s/o Jagjit Singh, employee No. 504376, working as MCT-III, in LMS III

131. Darbari Lal s/o Babu Ram, employee No. 503721, working as MCT-III, in LMS III

132. Sukhdev Singh s/o Teja Singh, employee No. 502917, working as MCT-III, in LMS III

133. Om Parkash s/o Tara Singh, employee No. 503921, working as MCT-III, in LMS III

134. Tarlochan Singh s/o Harbhajan Singh, employee No. 504198, working as MCT-III, in LMS III

135. Sham Sunder Singh s/o Bachan Singh, employee No. 503717, working as MCT-III, in LMS III

136. Chanan Singh s/o Waryam Singh, employee No. 503181, working as MCT-III, in LMS III

137. Prem Chand s/o Ram Dass, employee No. 503722, working as MCT-III, in LMS III

138. Balwinder Singh s/o Pritam Singh, employee No. 503945, working as MCT-III, in LMS III

139. Ram Gopal s/o Som Nath, employee No. 503922, working as MCT-III, in LMS III

140. Kulwant Singh s/o Arjan Singh, employee No. 504162, working as MCT-III, in LMS III

141. Ashok Kumar Bhaskar s/o Namvar Parsad, employee No. 503915, working as MCT-III, in LMS III

142. Naresh Kumar s/o Moti Ram Sharma employee No. 503918, working as MCT-III, in LMS III

143. Raghbir Singh s/o Sucha Singh, employee No. 503720, working as MCT-III, in LMS III

144. Jeet Singh s/o Sarup Singh, employee No. 503799, working as MCT-III, in LMS III

145. Avtar Singh s/o Gurcharan Singh, employee No. 503727, working as MCT-III, in LMS III

146. Gagandeep Singh s/o Late Sh. Manmohan Singh Bedi, employee No. 504289, working as CD-III, in LMS III

147. Tarlochan Singh s/o Tarlok Singh, employee No. 502985, working as MCT-III, in CRS

148. Balbir Singh s/o Norata Ram, employee No. 503944, working as G/FTR-III, in CMS

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149. Ramesh Kumar s/o Basanta Singh, employee No. 503964, working as G/FTR-III, in HTS
150. Dharma Pal s/o Inderjit Singh, employee No. 503716, working as MCT-III, in TMS
151. Gajinder Pal s/o Bal Kishan, employee No. 504308, working as TM/FTR in TMS
152. Darshan Singh s/o Joginder Singh, employee No. 400782, working as DSL/FTR-II in LRS
153. Gurpal Singh s/o Jagir Singh, employee No. 502738, working as Welder-III in BS.
154. Pritam Singh s/o Hardyal Singh, employee No. 503926, working as MCT-III in BS
155. Jaspal Singh s/o Hardial Singh, employee No. 502763, working as DSL/FTR in PPS
156. Jaswant Singh s/o Sher Singh, employee No. 504381, working as DSL/FTR-III in PPS
157. Ashok Kumar s/o Than Singh, employee No. 502759, working as Painter-III in LRS
158. Bakhshish Singh s/o Pritam Singh, employee No. 904157, working as MCT/III in LMS
159. Vijay Kumar Bharti s/o Shyam Lal, employee No. 503718, working as MCT/III in LMS
160. Harvinder Singh s/o Balraj Siogh, employee No. 502810, working as WLD/III in BS.
161. Charanjit Singh s/o Harinder Singh, employee No. 503992, working as MCT/Tech-III in SSS.
162. Pal Singh s/o Mohinder Singh, employee No. 502718, working as Tech-III in SSS
163. Taranbir Singh s/o Karam Chand, employee No. 502785, working as Tech-III in SSS
164. Arun Kumar s/o Narinder Kumar, employee No. 502711, working as Tech-III in SSS
165. Balwinder Singh s/o Gurdial Singh, employee No. 503662, working as Tech-III in SSS
166. Jaspal Singh s/o Pritam Singh, employee No. 502714, working as Tech-III in SSS
167. Suresh Pal s/o Singara Singh, employee No. 504392, working as Tech-III in BS
168. Paramjit Singh s/o Gulzar Singh, employee No. 502948, working as MCT/Tech-III in SSS

169. Pargat Singh S/o Sh. Gurmukh Singh, employee No. 502719, working as Tech. III in SSS. (J.S)

170. Balwinder Singh S/o Jai Ram, employee No. 503550, working as Tech-III in SSS.

171. Yogender Kumar Yadav S/o Nagrat, employe No. 503179, working as Tech III in BS.

172. R.K.T. S/o Shyam Lal, employee No. 504224, working as MCT-III in LMS.

173. Dharamvir Singh S/o Darshan Singh, employee No. 503970, working as MCT III in LMS.

174. Davinder Kumar S/o Roshan Lal, employee No. 504435, working as TM/FTR in TMS.

175. Parveen Kumari S/o Lachhiam Dass, employee No. 504438, working as TM/FTR -III in CS.

176. Kashama Kwatra S/o Deepak Raj, employee No. 504463, working as TM/FTR-III in CS.

177. Amrjit Singh. S/o Karnail Singh, employee No. 504427, working as G/FTR in HMS.

All working under the respondents.

...Applicants

BY ADVOCATE: SH. Karnail Singh.

VERSUS

1. Union of India through Chief Administrative Officer (R) Diesel Modernization Works Patiala, Punjab.

2. Chief Personnel Officer Diesel Modernization Works Patiala, Punjab.

...RESPONDENTS

BY ADVOCATE: SH.Yogesh Putney

ORDERHON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The applicant has filed the present O.A seeking the following relief:-

"8.2. that this Hon'ble Tribunal is humbly prayed to quash the impugned order dated 14.11.2009 (Annexure A-4) granted the second ACP benefit contrary to the ACP Scheme.

8.3. That the Hon'ble Tribunal please be granted the second financial benefit under MACPs scheme in scale of Rs. 5200-20200 with grade pay of Rs. 2400/- w.e.f. the date of completion of requisite service of the respective applicant as shown in the service particulars. (Annexure A-1, A-2 & A-3).

8.4. That this Hon'ble Tribunal is graciously pleased to grant the arrear with 12% interest as due.

2. The factual scenario, which is almost undisputed is as follows.

177 applicants have filed the O.A jointly, being a common cause of action, feeling aggrieved against the order of the respondents whereby they have been denied the financial benefit under the ACP and Modified Assured Career Progression Scheme (in short 'MACP'). Initially, the applicants were appointed as Khalasi/technicians with respondent department in the pay scale of Rs. 5200-20200 +G.P of Rs. 1800/- on different dates. They were promoted to the post of technicians grade III in the pay band of Rs. 5200-20200 with G.P of Rs. 1900/-. It is the case of the applicants that they have not been granted the grade pay in the hierarchy of pay band which is in violation of para 7 of the ACP Scheme. They have also placed reliance upon the order dated 07.10.2004 vide which the respondents had granted the benefit to the similarly situated persons and their pay was fixed in the Grade Pay of Rs. 2400/- whereas the applicants have been granted

the grade pay of Rs. 2000/- only which is illegal. Hence, the present O.A.

3. Pursuant to notice the respondents contested the claim of the applicant by filing a detailed reply wherein they have taken two preliminary objections. Firstly, that since the applicants have not approached this Tribunal with clean hands and twisted the facts in a way to prejudice the mind of the court, therefore, the O.A is to be dismissed. Reliance in support of plea has been placed upon the judgment passed by the Hon'ble Apex Court in case of **Dalip Singh Vs. State of U.P. & Ors.**, 2010(2) SCC 114. Secondly, O.A is barred by limitation and may be dismissed on the ground of delay and latches. By way of present O.A, the applicants have challenged the order dated 14.11.2009 by filing the same in year 2014, that is almost after the 5 years, which is not permissible under Section 21 of the Administrative Tribunals Act, 1985, therefore, petition deserves to be dismissed being hopelessly barred by limitation. Reliance in support of the plea is placed upon the judgment passed the Hon'ble Apex Court in case of **Union of India & Ors. Versus M.K.Sarkar** (2010 (2) S.C.C. Page 58). It is also submitted that the applicants tried to confuse the issue by placing reliance upon the part of ACP Scheme and Part of MACP Scheme ignoring the other relevant elements. It is also submitted that as per the MACP Scheme, effective from 01.09.2008, the applicants were granted the 1st Financial Upgradation vide order dated 14.11.2009. As earlier, they were granted the promotion, therefore, they are not entitled for benefit under ACP Scheme as the same was replaced by MACP Scheme w.e.f. 01.09.2008. It is also submitted that since the applicants were getting the G.P of Rs. 1800/- and Rs. 1900/- respectively, therefore, they were granted the next higher grade pay of Rs. 1900 & Rs. 2000/- respectively as per their entitlement. It is also submitted that the order dated

07.10.2004 (Annexure A-5), upon which the applicants are placing reliance is entirely different as in that case those persons did not get the promotion due to which they got financial upgradation which is not their case. In the present case, since the applicants have got promotion under ACP Scheme, which was in force at that time, and subsequent, on completion of minimum tenure they were granted the first financial upgradation under the MACP Scheme, therefore, the O.A be dismissed.

4. The applicants have also filed a rejoinder contradicting the averments made in the written statement.
5. We have heard Sh. Karnail Singh, learned counsel for the applicants and Sh. Yogesh Putney, learned counsel for the respondents.
6. Sh. Karnail Singh, learned counsel for the applicants vehemently argued that the impugned order dated 14.11.2009 granting the first ACP in the G.P of Rs. 1800/- and of Rs. 1900/- is totally illegal, arbitrary and contrary to the ACP Scheme. Therefore, same is liable to be set aside. To elaborate his arguments, he submitted that the applicants are entitled to be granted the financial upgradation in the grade pay of hierarchy as granted to the similarly situated persons as reflected in Annexure A-5. He also submitted that this court has already granted similar benefit of financial upgradation in hierarchical grade pay in the case of **Raj Pal Vs. U.O.I** (O.A No. 1038/CH/2010) as upheld by the Hon'ble Supreme Court.
7. Per contra, Sh. Yogesh Putney, learned counsel for the respondents started from where the applicants stopped. He submitted that in terms of the MACP Scheme, the benefit is to be granted in terms of Section 1 part A of the First Schedule of the Railway Service (Revised Pay) Rules, 2008 of revised pay structure for posts carrying scales in Group 'D', 'C', & 'B'. He submitted in terms of clause of 3 of the letter dated

10.06.2009 issued by the Railway Board under the subject of "Recommendations of Sixth Central Pay Commission-Modified Assured Career Progression Scheme (MACPs) for Railway Employees", the Scheme is in supersession of previous ACP Scheme and clarification issued there under and as such same was made effective from 01.09.2008 and by virtue of above communication, the employees are to be placed in the Pay Band and Grade Pay, as per the Section 1, part A of the First Schedule of the Railways Services (Revised Pay) Rules, 2008. In terms of the above, the applicants were granted the 1st Financial upgradation under the MACP Scheme. He submitted the judgment in case of Raj Pal (supra) is not applicable to the present case as a finding has been recorded by the court that the post carried by the applicant therein was isolated one and, thereafter, instructions dated 19.08.2013 were issued by the Nodal Ministry DoPT, clarifying that the judgement in case of Raj Pal (supra) cant be treated as precedent, therefore, it does not help the applicants as it is non-applicable. Lastly, he argued that the present O.A is barred by limitation. In support of his arguments, he placed reliance upon the judgment passed by the Hon'ble Supreme Court in case of E. Parmasivan Vs. Union of India, 2003(12) SCC 270, C.Jacob Vs. Director of Geology & Min. Indus. Est and Anr., 2009(1) RSJ 255 and Director of Settlement & Ors. Vs. D.Ram Prakash, 2002(3) SCT 657. He also placed reliance upon the judgment passed by the Hon'ble Jurisdictional High Court in case of Bal Krishan Vs. State of Punjab & Ors. 2013(2) RSJ 18.

8. We have given our thoughtful consideration to the entire matter and perused the pleadings as available on record, with the able assistance of the counsel for the parties.
9. A conjective perusal of the pleadings of parties makes it clear that the applicants were initially appointed as Khalasi/technician and subsequently, were promoted to the



posts of technicians grade III in the pay band of Rs. 5200-20200 with grade pay of Rs. 1900/- . Reason behind ACP Scheme, which was made applicable w.e.f. 01.10.1999, was that the persons who were not promoted and were facing stagnation on a particular post were to be granted the financial upgradations. The said scheme was superseded by MACP Scheme which was made applicable from 01.09.2008. It was also clarified by the Railway Board vide its circular dated 28.10.2010 that financial upgradation under the MACP scheme shall be allowed in the immediate next higher pay grade in the hierarchy of recommended revised pay bands as given in Railway Services (Revised Pay) Rules, 2008. The perusal of the MACP Scheme makes it clear that on enforcement of new/modified Scheme, the earlier ACP lost its relevance and the benefits available under the new MACP Scheme were to be extended. The respondents have categorically stated in their reply that the applicants were granted the benefit of 1st MACP vide letter dated 14.11.2009 by placing them in another Grade Pay as per the revised pay structure, since they did not get any promotion. Since, the ACP scheme stood superseded, therefore, the submission of the learned counsels for the applicants that they are to be granted the 2nd financial upgradation that too in the grade of hierarchy, does not arise. After grant of 1st promotion, the applicants became entitled for grant of financial upgradations under MACP on completion of 10, 20 & 30 years of service, therefore, the applicants were granted the 1st Financial upgradation w.e.f. 01.09.2008 that too in next grade pay only, therefore, they cannot lodge a claim which is contrary to the MACP Scheme and Railway Service (Revised pay) Rules, 2008. Accordingly, we do not find any fault with the impugned order. Even the case of the persons, annexed as Annexure A-5 by the applicants, does not help the applicants as in that case, the employees were granted the financial upgradation

under ACP Scheme. And the reliance placed by the applicants on case of Raj Pal (supra) is also not applicable to the present case as, there, are specific findings recorded by the court that the post of the applicant, therein, was an isolated post for which reason, he was given the benefit and subsequently, instructions were also issued by the DoPT regarding that judgment that same will not be treated as a precedent and now in connected matters for grant of similar benefit of judgment has been stayed by the higher court.

10. In the backdrop of above discussion, this Original Application turns out to be devoid of any merit and is dismissed.

11. No costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(RAJWANT SANDHU)
MEMBER (A)**

Dated: 28.1.2015

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