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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**ORIGINAL APPLICATION NO.061/00032/2014 &
060/00602/2014**

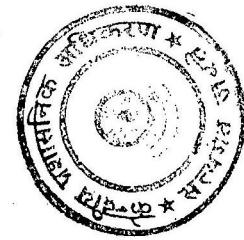
**Order Reserved on 17.3.2015
Pronounced on 24.3.2015**

**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**

O.A. No.061/00032/2014

1. MES No.506781 Ran Singh, Electrician HS.
2. MES No.506199 Arun Kumar, Electrician HS.
3. MES No.506897 Mohinder Mohan, FGM HS.
4. MES No.506899 Kishori Lal, FGM HS.
5. MES No.507215 Narinder Kumar, Electrician HS.

All working in the office of Garrison Engineer, Basoli (J&K).



... Applicants

1. Union of India, through, Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, Army Headquarters, New Delhi.
3. Chief Engineer, Western Command, Chandimandir.
4. The Chief Engineer, Pathankot Zone, Pathankot.
5. Commander Works Engineer, Pathankot.
6. Garrison Engineer, Basoli (J&K)

... Respondents

Present: Sh. Shailendra Sharma, counsel for the applicants.
Sh. Ram Lal Gupta, counsel for the respondents.

O.A. No.060/00602/2014

1. MES-506851 Sh. Varinder Singh, son of Late Sh. Mehar Singh, age 53 years, working as FGM(HS II) in the O/o GE, West, Pathankot.
2. MES-507331 Sh. Kuldip Kumar, son of late Sh. Kali Dass, working as Electrician (Highly Skilled II) in the O/o GE, West, Pathankot.
3. MES-507332 Sh. Madan Lal, son of late Sh. Amar Singh, working as Electrician (Skilled) in the O/o GE, West, Pathankot.

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4. MES-506442 Sh. Sampuran Chand, son of late Sh. Guro Ram, working as Electrician (Skilled) in the O/o GE, West, Pathankot.
5. MES-506435 Sh. Ravinder Kumar, son of late Sh. Ram Parkash, working as Electrician (Skilled) in the O/o GE, West, Pathankot.
6. MES-506440 Sh. Akash Singh, son of Sh. Chaju Ram, working as Fitter General Mechanic(Highly Skilled II) in the O/o GE, West, Pathankot.
7. MES-506431 Sh. Jagdeep Singh, son of Sh. Ram, Singh, working as FGM (Highly Skilled II) in the O/o GE, West, Pathankot.
8. MES-506434 Sh. Raghbir Singh, son of Sh. Man Singh, working as FGM (Highly Skilled II) in the O/o GE, West, Pathankot.
9. MES-506433 Sh. Naresh Kumar, son of Sh. Kewal Krishan, working as Fitter General Mechanic(Highly Skilled II) in the O/o GE, West, Pathankot.
10. MES-507303 Sh. Balwant Singh, son of Sh. Bishan Singh, working as FGM (Highly Skilled II), in the O/o GE, West, Pathankot.
11. MES-506577 Sh. Chhotu Ram, working as FGM (Highly Skilled II) in the O/o GE, West, Pathankot.
12. MES-507324 Sh. Bodh Raj, son of Sh. Birbal, working as Electrician (Skilled) in the O/o GE, West, Pathankot.
13. MES-506270 Sh. Ghan Shyam Lal, son of Sh. Hans Raj, working as Carpenter (Highly Skilled II) in the O/o GE, West, Pathankot.
14. MES-505694 Rajnish Mahajan working as Fitter General Mechanic(Highly Skilled II) in the O/o GE, West, Pathankot.
15. MES-507317 Gurcharan Singh working as Fitter General Mechanic(Highly Skilled II) in the O/o GE, West, Pathankot.
16. MES-506432 Sh. Nirmal Kumar, son of Sh. Goverdhan Dass, working as Fitter General Mechanic(Highly Skilled II) in the O/o GE, West, Pathankot.
17. MES-507302 Shashi Paul working as Fitter General Mechanic(Highly Skilled II) in the O/o GE, West, Pathankot.
18. MES-507321 Sh. Yash Pal Singh, son of Sh. Mangal Singh, working as Electrician (Skilled) in the O/o GE, West, Pathankot.

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19. MES-506267 Sh. Jaspal Singh, son of Sh. Shingara Singh, working as Painter (Highly Skilled I) in the O/o GE, West, Pathankot.
20. MES-507313 Sh. Surinder Kumar working as FGM (Highly Skilled II) in the O/o GE, West, Pathankot.
21. MES-505746 Sh. Karam Chand retired as Carpainter (Highly Skilled II) in the O/o GE, West, Pathankot.
22. MES-507213 Sh. Shiv Dayal working as Electrician (Skilled) in the O/o GE, West, Pathankot.
23. MES-507325 Sh. Karamjit Singh, son of late Sh. Parkash Singh, working as Electrician (Skilled) in the O/o GE, West, Pathankot.
24. MES-505690 Sh. Balwant Singh working as FGM (Highly Skilled II) in the O/o GE, South, Pathankot.
25. MES-507211 Sh. Rajneesh Kumar working as Electrician (Skilled) in the O/o GE, South, Pathankot.
26. MES-506197 Sh. Ramesh Kumar working as Electrician (Highly Skilled II) in the O/o GE, South, Pathankot.
27. MES 507322, Sh. Suresh Kumar, son of Sh. Bal Krishan, working as Electrician (Skilled) in the O/o GE, South, Pathankot.
28. MES-507323 Sh. Jaswant Singh working as Electrician (Skilled) in the O/o GE, South, Pathankot.
29. MES-506853 Sh. Narinder Singh, son of late Sh. Dhani Ram, working as FGM (Highly Skilled) in the O/o GE, South, Nangal.
30. MES-507299 Sh. Tarsem Lal, son of Sh. Munshi Ram, working as FGM (Highly Skilled II) in the O/o GE, South, Nangal.
31. MES-506235 Sh. Hemraj, son of Sh. Dinanath, working as Electrician (Highly Skilled II) in the O/o GE, South, Nangal.
32. MES-506233 Sh. Rajinder Kumar, son of Sh. Om Parkash, working as Electrician (Highly Skilled II) in the O/o GE, South, Nangal.
33. MES-507329 Sh. Hardeep Singh, son of Sh. Swaran Singh, working as Electrician (Skilled) in the O/o GE, Basoli.
34. MES-507214 Sh. Ramesh Kumar, son of Sh. Sardari Lal, working as Electrician (Skilled) in the O/o GE, Basoli.

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35. MES-506562 Sh. Surinder Pal Singh, son of Sh. Dharam Singh, working as Electrician (Highly Skilled) in the O/o GE, Basoli.
36. MES-506363 Sh. Tarsem Lal, son of Sh. Chhaju Ram, working as Electrician (Skilled) in the O/o GE, Basoli.
37. MES-506196 Sh. Baldev Singh, son of Sh. Kiker Singh, working as Electrician (Highly Skilled) in the O/o GE, Basoli.
38. MES-506841 Sh. Avtar Singh, son of Sh. Mewa Singh, working as Electrician (Skilled) in the O/o GE, Basoli.
39. MES-506519 Sh. Sukhdev Singh working as Electrician (Highly Skilled) in the O/o GE, South E/M, Mamoon.
40. MES-506671 Sh. Vijay Kumar working as Electrician (Highly Skilled I) in the O/o GE, South E/M, Mamoon.
41. MES-506686 Sh. Roshan Lal working as Electrician (Highly Skilled I) in the O/o GE, South E/M, Mamoon.
42. MES-506694 Sh. Nand Lal working as MCM (FGM) in the O/o GE, E/M, Mamoon.
43. MES-506683 Sh. Kasturi Lal working as Electrician (MCM) in the O/o GE, North E/M, Mamoon.
44. MES-507306 Sh. Balwinder Singh, working as FGM (HS II) in the O/o GE, South, Unchibasi, Pathankot.
45. MES-506427 Sh. Bodh Raj working as Electrician (HS-II) in the O/o GE, West, Pathankot.

... Applicants

Versus

1. Union of India, through, Secretary, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, Army Headquarters, Kashmir House, Rajaji Marg, New Delhi - 110 001 8
3. Chief Engineer, HQ Western Command, Chandimandir -908543.
4. Commander Works Engineer, Pathankot.
5. Commander Works Engineer, Mamoon.
6. Principal Controller of Defence Accounts, Western Command, Sector 9, Chandigarh.

... Respondents

Present: Sh. Jagdeep Jaswal, counsel for the applicants.
Sh. Ram Lal Gupta, counsel for the respondents.

As —



ORDER**BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

1. These OAs have been filed claiming Grade Pay of Rs.4600/- as Third MACP as the applicants have completed thirty years of service. Since claim for relief and the grounds taken for the same in these OAs are similar, they are decided through a common order. For convenience facts are taken from O.A. No.061/00032/2014.
2. It has been stated in the O.A. that the applicants have worked since 1982-1983 with the respondent department and throughout their service, they did not get any promotion. After the introduction of the revised pay scales w.e.f. 1.1.1996, the ACP Scheme was introduced w.e.f. 09.08.1999 and the applicants got first ACP in the scale of Rs.4000-6000 on completion of 12 years of service w.e.f. 09.08.1999. After the recommendations of the Sixth Pay Commission were implemented w.e.f. 01.1.2006, the respondents introduced MACP Scheme w.e.f. 01.09.2008 and as per this Scheme, the employees were entitled to Grade Pay under the Scheme on completion of 10/20/30 years of service if they have not received any promotion. Since MACP was implemented w.e.f. 01.09.2008, the old ACP Scheme was extended upto 30.08.2008. Since the applicants completed 24 years of service under ACP Scheme in the year 2006/2007, they got pay scale of Rs.5000-8000 and on account of revision

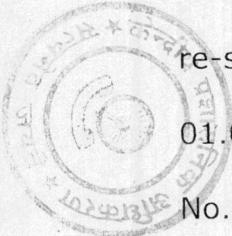
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of scales they were placed in the scale of Rs.9300-34800 with Grade Pay of Rs.4200/-.

3. Averment has been made in the OA since the 3rd MACP of Grade Pay of Rs.4600/- was not being given to the applicants, they moved a representation dated 12.02.2014 before respondent no.4 and prayed that 3rd MACP of Grade Pay of Rs.4600/- be granted to them (Annexure A-2). This was forwarded by AGE under whom the applicants were working to respondent no.6 on 12.02.2014 (Annexure A-3). In the meantime, the respondent no.2 issued letter dated 10.03.2014 whereby, it has been conveyed that the employees who have got the scale of Rs.5000-8000 (Old Scale) after 01.01.2006 will not be entitled for the Grade Pay of Rs.4600/- as 3rd MACP on account of completion of 30 years of service (Annexure A-4). It is alleged that the impugned letter dated 10.03.2014 (Annexure A-4) is arbitrary and discriminatory as artificial demarcation has been created between two sets of employees i.e. those who got the scale of Rs.5000-8000 prior to 31.12.2005 and those who got this scale after 31.12.2005. Hence this O.A.

4. In the counter reply filed on behalf of the respondents facts of the matter have not been disputed. However, it has been stated that cadre of Artisan Staff in Defence Establishment has been re-structured in modification of recommendation of Sixth CPC w.e.f. 01.01.2006 as per Government of India, Ministry of Defence letter No.(5)/2009-D (Civ.I) dated 14.06.2010 (Annexure R-1). The pay



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scales of Defence Artisan Staff stand modified w.e.f. 1.1.2006 as under:

(i)	Skilled	Pay Band PB-I, Grade Pay of Rs.1900/-
(ii)	Highly Skilled Grade-II	Pay Band PB-I, Grade Pay of Rs.2400/-
(iii)	Highly Skilled Grade-I	Pay Band PB-I, Grade Pay of Rs.2800/-
(iv)	Master Craftsman	Pay Band PB-2, Grade Pay of Rs.4200/-

The Grade Pay of Rs.4200/- has been granted to the senior most individuals who were already granted ACP-II in the pre-revised pay scale of Rs.5000-8000 on completion of 24 years of service upto 31.08.2008, if otherwise found eligible. The applicants were quite junior to other individuals and had not completed 24 years of service upto 31.08.2008 and hence they were ineligible for grant of 2nd ACP in the pre-revised scale of Rs.5000-8000 up to 31.08.2008. Therefore, they cannot be treated at par with the senior most individuals though they were working on the same post.

5. In the rejoinder filed on behalf of the applicant the content of the OA has been reiterated.

6. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant narrated background of the matter. He stated that the applicants had not got any promotion in their entire service. They had completed 24 years of service between 01.1.2006 when the recommendations of the Sixth Pay Commission were implemented and 01.9.2008 when the MACPS

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came into effect. Learned counsel stated that the applicants were getting Grade Pay of Rs.4200/- as per the Second ACP and hence on completion of 30 of service, they were entitled to third MACP with Grade Pay of Rs.4600/-. The respondents had declined the claim of the applicant in this regard. He pressed that artificial demarcation has been created between the persons who got 2nd ACP before 01.1.2006 and those who got this in 2006/2007.

7. Learned counsel for the respondents stated that the written statement be taken into account as his arguments in the matter.

8. We have given our thoughtful consideration to the matter. Although the applicants have impugned letter No.CC-II.B.77030/VI/CPC/IND/06/CSCC dated 10.03.2014, whereby clarification has been given by the MoD regarding claims of Grade Pay of Rs.4600/-, the letter No.11(5)/2009-D(Civ.I) dated 14.06.2010 which is the Policy letter regarding the Restructuring of Cadre of Artisan Staff in Defence Establishments in modification of recommendations of 6th CPC has not been impugned. Para 3(a) and 4(i) of this letter reads as under:

"3(a) Wherever the grade structure in the Industrial as well as Non-Industrial trades is already existing in the ratio of 45:55, the erstwhile Skilled and Highly Skilled, and 25% of Highly Skilled in the grade of Master Craftsman, the following will apply:

* 45% of the posts may be granted the pay scale of Skilled Workers (Grade Pay of Rs.1900 in the Pay Band PB-I).

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* 25% of the remaining 55% may be granted the pay scale of MCM (Grade Pay of Rs.4200 in the pay band PB-2).

*
(b)
(c)

4(i) The post of Master Craftsman shall be part of the hierarchy and the placement of Highly Skilled Grade I in the grade of Master Craftsman will be treated as promotion."

The applicants got Grade Pay of Rs.4200/- in Pay Band-II as per their own admission during 2006/2007. This is the pay scale of MCM and as per Para 4(i) reproduced above, post of Master Craftsman is part of hierarchy and placement of HSG (I) in the grade of Master Craftsman will be treated as "promotion". Hence as per the policy regarding Restructuring of Cadre of Artisan Staff, the placement of the applicants in Grade Pay of Rs.4200/- is to be treated as "promotion". Since the applicants have got the promotion as such during the year 2006/2007, their claim of third MACP with grade pay of Rs.4600/- is not admissible as this claim would only have been allowed had they not got any promotion. Hence the claim of the applicants in these OAs that they be given 3rd MACP benefit in the Grade Pay of Rs.4600/- is without merit and the same is rejected.



(DR. BRAHM A. AGRAWAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.

Dated: 24.3.2015

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Agnew Kumar

अनुभाग अधिकारी (न्यौ) / Section Officer (Jud.)

केन्द्रीय प्रशासनिक अधिकारण

Central Administrative Tribunal

चंडीगढ़ योठ/ Chandigarh Bench

चंडीगढ़ / Chandigarh

96/ul/15