

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
**REVIEW APPLICATION NO.060/00039/2015 IN
O.A. NO.060/00602/2014**

Date of Decision: 15.5.2015

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

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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.
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. Raghubir 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.

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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.
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.
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.

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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

ORDER

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

1. The present R.A. has been filed by the applicants under Section 22(3)(f) of Administrative Tribunals Act, 1985 praying that the order dated 24.03.2015 (RA-1) may be reviewed.
2. In the grounds for review it has been stated as follows:
 - i. Para 4(iii) of the policy dated 14.06.2010 is not relevant to the issue in as much as the same did not deal with the MACP Scheme. Had para 4(iii) been relevant, the

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MACP in grade pay of Rs.4600/- would not have been granted to anyone who got PB-II with GP Rs.4200/- which is not the case. The applicants are entitled to 3rd MACP even if their placement in grade pay of Rs.4200/- is treated as promotion as per the law laid down by the Principal Bench in the case of Delhi Nurses Union (Regd.) and another versus UOI and others in OA No.141 of 2012 (Annexure RA-2) and the same has been upheld by the Hon'ble Delhi High Court in WP No.5126/2012 decided on 24.08.2012 (Annexure RA-3) and also by the Hon'ble Supreme Court of India while dismissing the SLP (CC) no.4399/2013 vide order dated 04.03.2013 (Annexure RA-4). In this case despite three actual promotions, which resulted in financial upgradations only two times, the third being in the same grade pay, the Court held that 3rd financial upgradation is also required to be given (despite three promotions). The present case is on much better footing than the above case as the applicants have got only financial upgradations i.e. 1st ACP in the pay scale of 4000-6000 and 2nd ACP in the pay scale of 5000-8000 (revised to PB-II with GP 4200) and have completed thirty years without third financial upgradation.

- ii. The impugned order dated 06.02.2014 (A-1) and clarification dated 10.03.2014 (A-2) only dealt with the issue of MACP and were challenged by the applicant, to the extent these denied to the applicants, the benefit of 3rd MACP in the Pay Band of Rs.9300-34,800 with GP 4600.
- iii. Even respondents did not reply upon para 4(iii) of policy dated 14.06.2010 either in the impugned orders or in the written statement and the applicants did not challenge the same. Further, the finding is beyond the scope of the pleadings.
- iv. Since even respondents did not reply upon para 4(iii) of policy dated 14.06.2010, the same was not challengeable being not in issue. However, had this been in the mind of this Tribunal, an opportunity to challenge the same should have been afforded to the applicant and the case should not have been dismissed on a technical ground. As — .

v. It has been repeatedly held that placement/promotions in same pay scales cannot deny the benefits under the ACP/MACP Scheme. In this regard, specific reference was made by the applicants to the judgment dated 03.09.2009 of this Tribunal in O.A. No.841/PB/2007 titled Ram Sarup versus Union of India & Ors. (Annexure RA-5) vide which the promotion/placement of an employee in similarly situated pay scale has not been considered promotion to deny the benefit of 2nd ACP to the said employee. This decision dated 03.09.2009 has further been upheld by the Hon'ble Punjab and Haryana High Court in CWP No.20480 of 2010 vide judgment dated 06.07.2011 (Annexure RA-6) and has also been accepted and implemented by the MES Authorities.

3. It is seen from the grounds taken in the R.A. that the applicants are seeking rehearing of the whole matter and this is not within the cope of R.A. as has been held in **Meera Bhanja Vs. Nirmala Kumari Choudhury, AIR 1995 SC 455**. There is no error on the face of the record in the order that is subject of review. Much of the case law cited now was not brought up when arguments were heard in the O.A. Hence this R.A. not being within the scope of Order 47 Rule 1 CPC is rejected.

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

(RAJWANT SANDHU)
MEMBER (A)

*Place: Chandigarh.
Dated: 15.5.2015*

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CENTRAL GOVERNMENT MINISTRY/ TRIBUNAL

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

REVIEW APPLICATION NO. 060/2015 OF IN

ORIGINAL APPLICATION NO. 060/2014 OF 2014

Varender Singh Loh APPLICANT (S)

VERSUS

Union of India & ors. union
RESPONDENT (S)

The Review Application under reference has been submitted to the Tribunal by post/personally by Mr. Jagdeep Tatwaw under Section 22(J) of the Administrative Tribunal Act, 1985 read with rule 17 of the Central Administrative Tribunal Rules of Procedure Rules, 1987 and is for Review of Judgment delivered by the Bench dated 24/3/2015.

The Review Application has been scrutinized in the light of provisions contained in the Act and the Rules and has been found be in order.

The Review Application may be submitted to Hon'ble Member Mr. Raywant Sardhu Member (A) AND Hon'ble Mr. P. Abasam A. Ayyar Member (J) for appropriate orders by circulation.

6/5/15

SECTION OFFICER (JUDL)

DEPUTY REGISTRAR / PPS Neetu Kumar
7/5/15

REGISTRAR. 7/5/15 is the date on which the Review Application submitted to the Tribunal by post/personally by Mr. Jagdeep Tatwaw to the Hon'ble Member (A) (EOD) 7/5/15 Draft order rejecting the Review Application is placed below for Hon'ble Member (A/I) 7/5/15 consideration.

Hon'ble Member (A) 7/5/15 Hon'ble Member (J) 7/5/15
Hon'ble Member (J/I) 7/5/15 12/5.

REVIEW APPLICATION NO. 060/2015 OF IN
ORIGINAL APPLICATION NO. 060/2014 OF 2014
Varender Singh Loh APPLICANT (S)
Union of India & ors. RESPONDENT (S)