

**Central Administrative Tribunal  
Principal Bench**

**RA No.18/2016  
MA No.207/2016  
in  
OA No.3219/2012**

New Delhi, this the 7<sup>th</sup> day of September, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman  
Hon'ble Mr. V.N. Gaur, Member (A)**

Smt. Vidula w/o Late Sh. Bhag Singh Arya,  
r/o 619/23/I, Chhattarpur,  
New Delhi-74.

...applicant

(By Advocate : Shri Yogesh Sharma)

**Versus**

1. Govt. of NCT of Delhi through  
The Chief Secretary,  
New Sectt. Players Building,  
Near ITO, New Delhi.
2. The Director of Education,  
Govt. of NCT of Delhi,  
Old Sectt. Delhi.
3. The Deputy Director of Education,  
Govt. of NCT of Delhi,  
Distt. South Defence Colony,  
New Delhi.
4. The Principal/HOS,  
Govt. Boys Sr. Sec. School,  
Begampur,  
New Delhi.

...respondents

(By Advocate : Shri B.N.P. Pathak )

**ORDER (ORAL)**

**Mr. Justice Permod Kohli, Chairman :-**

Shri Yogesh Sharma submits that due to inadvertent error, the name of Shri Bagh Singh Arya, the deceased employ has been

shown as the review applicant in the present RA, though the review has been filed by Smt. Vidula, his widow, as the original applicant had died. He accordingly, seeks leave of the Tribunal to delete the name of the deceased Government servant and submits that the present Review Application may be treated on behalf of Smt. Vidula, the only surviving legal heir of the deceased. Prayer allowed. He is directed to make necessary corrections in the court itself. Corrections have been carried out.

**MA No.207/2016**

2. This Review Application has been filed beyond the time prescribed for filing the RA. The applicant has filed application for condonation of delay. While explaining the delay, learned counsel for review applicant stated that that the deceased employee was suffering from kidney and lever failure and remained indoor patient under treatment, and ultimately died on 06.03.2015, and thus the present review has been filed by his legal heir. Accordingly, the delay of approximately 11 months is sought to be condoned. No objections to the condonation application have been filed.

3. We have heard the learned counsel for the parties. In view of the circumstances indicated in para 2 of the application, we condone the delay in filing the RA.

**RA No.18/2016**

4. This review is directed against the judgment dated 24.11.2014 passed by this Tribunal in OA 3219/2012. While disposing of the OA, the Tribunal issued the following directions :

“6. In the present case, the applicant had become eligible for consideration for 3rd financial up-gradation w.e.f. the date of completion of 30 years of service. We do not find from the pleadings of parties that he was considered for such upgradation. In terms of the MACP Scheme dated 19.05.2009, it is incumbent upon the respondents to consider the applicant for financial upgradation in terms of the Scheme and it would be for the concerned Committee to form its own view about his suitability for such upgradation.

7. In the circumstances when interference in the impugned ACR/ order is declined, the OA is disposed of with direction to respondents to consider the applicant for financial upgradation in terms of the MACP Scheme w.e.f. the date he completed 30 years of service on the basis of the available record, if not already considered. No costs.”

5. The only ground seeking review is that the applicant never prayed for third financial upgradation under MACP scheme, rather the applicant in OA prayed for second financial upgradation which had not been granted to him earlier. The applicant has reproduced para 4.3 of his OA in para 3 of the RA. We also find that in relief part as reproduced in the judgment under review, there is no mention of third financial upgradation although reference is made to MACP scheme which became applicable w.e.f. 01.09.2008. There

is no denial of this fact in the counter affidavit. What is stated in the counter affidavit is that the applicant was not in possession of the requisite qualification for financial upgradation and in so far as the third financial upgradation under MACP is concerned, the applicant had rendered only 29 years one month and 27 days of service till his retirement. Thus he was not eligible for third financial upgradation.

6. We have heard the learned counsel for the parties. The question of grant of third financial upgradation on completion of 30 years of service as directed by this Tribunal in the judgment under review was not the prayer of the applicant or case of the applicant in the OA. His only claim was for second financial upgradation on completion of the requisite period, under the MACP scheme. It appears that due to some error, the direction has been issued for consideration of the applicant for third financial upgradation on completion of 30 years of service. We thus, find that there is an error apparent on the face of record, warranting interference in exercise of the review jurisdiction. This review is accordingly allowed with the following directions :-

In Para 6 and 7 of the order under review dated 24.11.2014, the direction to the respondents for grant of third financial upgradation with effect from the date of completion of 30 years of service would

stand deleted and the respondents are directed to consider the claim of the applicant for second financial upgradation in accordance with the mandate of the MACP scheme, considering all the relevant factors.

**( V.N. Gaur )**  
**Member (A)**

**( Justice Permod Kohli )**  
**Chairman**

‘rk’

