

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

RA No. 245/2015 in  
OA No. 2639/2012  
MA No.741/2016  
MA No.2184/2012  
MA No.3260/2013

Order Reserved on: 19.04.2016  
Pronounced on: 06.05.2016

***Hon'ble Mr. V. Ajay Kumar, Member (J)***  
***Hon'ble Mr. V.N. Gaur, Member (A)***

1. Sh. S K Saraswat  
S/o Late S P Saraswat  
R/o 121-C/9 Krishan Garh  
Vasant Kunj,  
New Delhi-110070.
2. Damodar Tiwari  
S/o Late C.D.Tiwari  
R/o QU / 310-D,  
Pitampura, New Delhi - 110088
3. Mr. M K Aggarwal  
S/o Sh. Mukat Lal  
77, Inder Enclave, Rohtak Road  
Delhi.
4. Mr. M L Ambhore  
S/o Mr. Laxman  
1076, East of Loni Road,  
Near Gol Chhakar Shadara,  
Delhi-110093
5. Mr. L M Pande  
S/o Mr. NityanandPande  
No.203 Block-5 Multistories  
DDA Flats Motia Khan  
Pahar Ganj Delhi-110055.
6. Mr. Om Pal Singh  
S/O Sh. D.V.Singh  
R/o 549, II floor, Bhai Parmanand Colony  
Delhi-110009.

7. Ms. Krishna Rawal  
W/o Mr. Munish Kumar Rawal  
R/o A-2/114,  
PaschimVihar,  
New Delhi-110063.
8. Ms. Kamlesh Kaur Chauhan  
W/o Mr. P P S Chauhan  
R/o F-17/117 Sector-VIII  
Rohini Delhi-110085.
9. Mr. H K Pandey  
S/o Sh. R.N.Pandey  
R/o 128-A, Sunder Apartments,  
GH-10, Paschim Vihar,  
New Delhi.
10. Ms. Vimlesh  
W/o Dr.Surender Kumar  
R/o 508, Block-2, Multistories Flats,  
Motia Khan Delhi-110055.
11. Ms. Shashi Bala Saini  
W/o Mr. Anil Kumar Saini  
R/o A-12 Suvidha Apartment  
Sector-13, Rohini,  
Delhi-110085.
12. Ms. MithleshVerma  
W/o Mr. T.L.Verma  
R/o 1/102, 1<sup>st</sup> Floor  
Old Rajender Nagar  
New Delhi-110060.
13. Ms. Vidya Devi  
W/o Sh. PremSagar  
R/o G-2/13, Sector-11, Rohini  
Delhi-110085.
14. Ms. Praveen Bhalla  
W/o Dr.V.S.Bhalla  
R/o D-1/3, 10 Rajpur Road  
Delhi-110054.
15. Ms. Kamlesh Singh  
W/o Mr. Ram Singh  
R/o BE-92, Shalimar Bagh.

16. Ms. Afsan Yasmin  
W/o Sh. Azizuddin Ahmed  
R/o 10/15 Probyn Road  
Mall Road, New Delhi.
17. Mr. Baldev Singh  
S/o Late Sh. Bhagwan Singh  
R/o F-17/75 Sector-8 Rohini  
Delhi-110085
18. Mr. C P S Verma  
S/o Late P S Verma  
R/o 25A, DDA Flats,  
AnandVihar, Delhi – 110092.
19. Mr. M.S. Madhol  
S/o Sh. Shriniwas Rao  
R/o Flat No. 73, RasVihar,  
IP Extension, Patpar Ganj  
Delhi-110092.
20. Ms. PapleshLata Tara  
W/o Sh. Pradeep Tara  
R/o 164, AGCR Enclave,  
Delhi – 110092.
21. Mr. E.D.Thomas  
S/o Sh. E.T. Devasia  
R/o 42, Pocket 5, Sec. 12,  
Dwarka, New Delhi.
22. Mr. D P Singh  
S/o Late Hardeo Singh  
R/o D-6 Gali No-6, ShashiGarden,  
MayurVihar Phase-I, Delhi-110091.
23. Ms. Kumkum Lamba  
W/o Sh. Vinay Lamba  
R/o H-343, New Rajinder Nagar,  
New Delhi -110060.
24. Mr. K.I. Bhatt  
S/o Sh. S. Shaka Bhatt  
R/o 52-A, Pocket 1,  
MayurVihar Phase-I,  
Delhi – 110091.

25. Ms. Rewa Dass  
W/o Sh. Purshotam Dass  
R/o B-27, Chander Nagar,  
Ghaziabad (U.P.).
26. Ms. Sushila Kumari Ahlawat  
W/o Sh. Raj Singh Ahlawat  
R/o B-39, Gheronda Appts,  
Shreshtha Vihar.
27. Sh. Virender Kumar  
S/o Late Sh. Uday Ram  
R/o Flat No. 21D, Plot No. 108,  
Sanchar Lok, I.P Extension,  
Delhi – 110092.
28. Ms. Saroj Bala Sain  
W/o Sh. DR Haldwani  
R/o 180-B, Pocket J&K,  
Dilshad Garden,  
Delhi-110095.
29. Ms. Dinesh Kumar  
S/o Late Sohan Pal  
R/o A-52, West Nathu Colony,  
Delhi-110053.
30. Dr.Saroj Chamoli  
W/o Sh. LN Chamoli  
R/o 80, Sahyog Appts,  
Mayur Vihar Phase-2,  
Delhi-110091.
31. Mr. Bhoopal Singh  
S/o Sh. Ram Kishan  
R/o E-160, Bharat Vihar,  
Kakrola, New Delhi-110078.
32. Dr. S.M.S. Kujur  
D/o Late Birbal Kujur  
R/o 173-F, Ward No.3,  
Flat No.105, Ashirvad Appts,  
Mehrauli, New Delhi-110030.
33. Dr. Naresh Chandra Tiwari

S/o Late Raghubir Sahai Tiwari  
R/o 324, Welcome Phase-III,  
GT Road, Shahdara, Delhi-110053.

34. Ms. Umeshwara Singh  
W/o Sh. Surender Singh  
R/o 34-D, DDA Flats, Pocket-2,  
Sector-7, Dwarka,  
New Delhi – 110045.
35. Mr. Praful Lagun  
S/o Late Junas Lagun  
R/o GH-10, 125 D,  
Sunder Appts,  
Paschim Vihar, Delhi.
36. Ms. Suman Lata Passi  
D/o Sh. Durga Prashad Passi  
R/o 1/83, Nehru Nagar,  
New Delhi – 110065.
37. Ms. Tosh Pratima Kohli  
W/o Sh. Kailash Chander Kohli  
R/o B-92, Subhadra Colony,  
Sarai Rohilla, Delhi – 110035.
38. Ms. Promila Chadha  
W/o Sh. P R Chadha  
R/o FC-82, Tagore Garden,  
New Delhi – 110027.
39. Ms. Kaushalya Yadav  
W/o Sh. R S Yadav  
R/o WZ 50-A, Chaukhandi Extension,  
New Delhi – 110018.
40. Ms. Archana Sehrawat  
W/o Sh. S K Sehrawat  
R/o Flat No. 35, House No. 443,  
Sector – 6, Skylark Apartments,  
Dwarka, New Delhi - 110075.
41. Ashutosh Ghosh  
S/o Late P. K. Ghosh  
R/o House No. 7/A, Gali No. 2,  
AjayPark, Naya Bazar,  
Nazafgarh, New Delhi – 110043.

42. Kunti Aswal  
W/o Sh. D. S. Aswal  
R/o Block No. 205,  
Quarter No. 16, Sector-1,  
Pushp Vihar,  
New Delhi – 110017.
43. Ms. S L Mahajan  
W/o Sh. R K Mahajan  
R/o D-67, Sector-26,  
NOIDA (U.P.).
44. Sh. Mahendra Singh  
S/o Sh. Bhav Singh  
R/o C-119, IG Memorial Nagar,  
Faridabad (HARYANA).
45. Ms. Debjani Chaudhary  
D/o Late A. K .Mandal  
R/o Flat No. 101, Tower-I,  
Unitech Harmony,  
Gurgaon-122017 (HARYANA).
46. Mr. B. D. Kaushik  
S/O Late Paramanand  
R/O House No. 893,  
Sector-22, Gurgaon (Haryana).
47. Mr. Satyendra Prakash Maleyvar  
S/O Late Balbir Singh  
R/O WZ-215-B, 1<sup>st</sup> Floor, Gali No. 2,  
Varindra Nagar,  
New Delhi – 110058.
48. Mr. Jyoti Prasad  
S/O Sh. Bhim Singh  
R/O WZ-215-B, 1<sup>st</sup> Floor, Gali No. 2,  
Varindra Nagar,  
New Delhi – 110058.
49. Mr. N C Kaushik  
S/O Late K S Sharma  
R/O 71/1, Prem Nagar, Phase-IV,  
Nazafgarh,  
Delhi.

50. Mr. S. K. Nirmal  
S/O Sh. Nathu Ram  
R/O RZ-21, Yamunotri Enclave,  
Gopal Nagar, Nazafgarh,  
Delhi.
51. Mr. S. K. Nimmi S/O Sh. Samman Singh  
R/O 2656/1, Gali No. 6, Bihari Colony,  
Shahdara, Delhi.
52. Ms. Madhu Singh W/O Sh. R P Singh  
R/O 5/636, Lodhi Colony, New Delhi.
53. Ms. KamlaNimbal W/O Sh. Umed Singh  
R/O House No. 185, Navada,  
Delhi-110059.
54. Ms. Snehsaxena D/O Sh. R B Saxena  
R/O E-33, NDSE-I,  
New Delhi-110049.
55. Ms. C. P. Osta  
D/O Late A P Osta D-64/20,  
R/O Vashundhara Apartment,  
Dilshad Colony,  
Delhi-110095.

- Review Applicants

(By Advocate: Sh. Rajesh Goswami)

Vs.

1. Chief Secretary  
Govt. of National Capital Territory of Delhi  
Delhi Govt. Secretariat,  
IP Estate,  
New Delhi-110002.
2. Director of Education  
Govt. of National Capital Territory of Delhi  
Old Secretariat,  
Delhi-110054.
3. Ministry of Home Affairs  
Govt. of India  
New Delhi.  
Through Under Secretary.

4. Department of Personnel & Training  
Ministry of Personnel Public Grievance & Pensions  
Govt. of India  
New Delhi.

-Review Respondents

(By Advocate: Sh. R.N.Singh for Sh. K.M.Singh)

### **ORDER**

**Hon'ble Shri V.N.Gaur, Member (A)**

MA No. 741/2016, filed for condonation of delay in filing the present RA, is allowed.

2. The present Review Application has been filed in OA No.2639/2012 which was disposed of by this Tribunal vide order dated 27.02.2015. The prayer made in the OA reads as follows:

- "a. Quash the Letter No.14012/07/2011-Delhi-1 dated 12.03.2012 issued by Ministry of Home Affairs and order No.De.3(4)/ACP Cell.09/156-62 dated 22.03.2012 issued by Assistant Director of Education (ACP) being in gross violation of Article 14, 16 and 21 of the constitution and as well as in violation of recommendation of sixth central pay commission/MACP which are duly accepted and implemented by the Central government and Delhi government for other cadre officer/officials.
- b. Direct the respondents to implement their own order dated 22.10.2009 and other instructions contained in Annexure A-1 to A-4 of the present OA for releasing benefits of MACP to the applicants with a timeframe direction;
- c. Direct the respondents to implement the Modified Assured Career Progression Scheme (MACPS) in the cases of applicants for granting them first financial upgradation in PB4 (Rs.37,400-67,000/- with grade pay of Rs.8700/- w.e.f. 01.09.2008;
- d. Direct the respondents to fix the pay of the applicants in pay grade of Rs.8700/- w.e.f. 01.09.2008 and to release upto date arrears of pay and allowances as per first financial upgradation within a time frame alongwith interest on the arrears;
- e. Allow cost of litigation
- f. Pass any other or further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of this case."

3. After considering the arguments presented by both the sides, the order passed in the OA is reproduced below:



“18. From the preceding discussion, we are convinced that the respondents’ decision of not granting financial upgradation as envisaged under the MACPS to the applicants is without any legal basis, and therefore, we quash and set aside the impugned orders dated 12.03.2012 and 22.03.2012. The respondents are directed to grant the first financial upgradation under MACPS to the applicants in the grade pay of Rs.8700 in PB-4 from the date of their entitlement as per the rules within a period of three months. The applicants will draw salary in the new grade pay from the date of this order without arrears. OA is disposed of accordingly. No order as to costs.”

4. The review applicant has contended that the Tribunal had rightly granted the MACPS to applicants in the OA in grade pay of Rs.8700/- in PB-4 from the date of their entitlement as per the rules. However, it erred in denying the arrear of pay from the date of their entitlement. It has been submitted that 37 out of 55 applicants have already retired and despite the fact that their contentions have been upheld in the OA. They have been denied the benefit of the same as the arrear has not been allowed. The attention has been drawn to prayer in Clause-c & d wherein the applicants had demanded the grade pay of Rs.8700 w.e.f. 01.09.2008 and the arrears of pay and allowances as per the financial upgradation along with interest and arrear. According to the review applicants, the Tribunal committed an error on the face of record when it did not grant arrear of pay along with interest as per the prayer clause in the OA.

5. The learned counsel for the respondents in RA submitted that the Tribunal had taken into consideration all the submissions made by the applicant in the OA while passing its

order. It was a conscious decision not to grant the relief with retrospective effect. It is not mandatory for the Tribunal to grant all the relief claimed by the applicant in the OA. If some relief is not granted that cannot be considered as an error on the face of record. Further the relief claimed in clause (c) of the prayer clause of the OA is same as the prayer in the RA. The applicants are therefore trying to reargue the case through this RA.

6. Heard the learned counsel of both the sides.

7. The power of review of its own order by this Tribunal emanates from Section 22(3)(f) of the Administrative Tribunals Act. In **Ajit Kumar Rath v. State of Orissa and Others**, (1999) 9 SCC 596 the Hon'ble Apex Court held that "power of review available to the Tribunal under Section 22 (3)(f) is not absolute and is the same as given to a Court under Section 114 read with Order 47 Rule 1 of CPC."

8. Order XLVII, Rule (1) of Code of Civil Procedure reads is reproduced below:-

"(1) Any person considering himself aggrieved,—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error

apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”

9. In ***Union of India v. Tarit Ranjan Das***, (2004) SCC (L&S)

160 the Hon’ble Apex Court held that the scope of review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits.

10. In the order dated 27.02.2015 this Tribunal after granting the prayer of the applicants for the grade pay of Rs.8700 in PB-4 under MACPS, specifically directed that the new grade pay will be given from the date of that order without arrears. The review applicants have not shown any rule or law that would make it obligatory for the Tribunal to grant the upgraded pay scale with retrospective effect along with the arrears and interest thereon, which was pleaded by the applicants but ignored by the Tribunal. They have only tried to justify their stand in favour of granting the relief from 2009. It is trite that in an RA neither the applicants can reargue their case nor the Tribunal can be its own appellate authority. After the order has been passed the Tribunal becomes *functus officio*. For exercising the review jurisdiction by the Tribunal there has to be an error which is apparent on the face of the record and it cannot be an alternative route to modify its

earlier judgment. The applicants have not pointed out any such error in the RA.

11. Therefore, we do not find any justification to invoke the review jurisdiction of the Tribunal in the context of the order passed in OA No.2639/2012 on 27.02.2015. The present RA is devoid of merit and is dismissed as such.

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

***(V. Ajay Kumar)***  
***Member (J)***

'sd'