

**Central Administrative Tribunal
Principal Bench
OA No. 2658/2014**

New Delhi this the 08th day of December, 2016

Hon'ble Sh. Raj Vir Sharma, Member (J)
Hon'ble Sh. K.N. Shrivastava, Member (A)

1. Sh. Pramod Kumar
Age :50 years (approx.)
S/o Late Shri Malkhani Singh Chauhan
R/o Qtr. No. No. 550, Sector-8,
R.K Puram, New Delhi -110022
working as Upper Division Clerk,
Office of D.C. Handlooms,
Ministry of Textiles, Udyog Bhawan
Nw Delhi-110001.
2. Smt. Visalakshi Sivanandan,
Age: 50 years,
W/o Sh. P. Sivanandan,
R/o Qtr. No.1243, Sector-4
R.K. Puram, New Delhi-110022
working as Upper Division Clerk,
Office of D.C. Handlooms
Ministry of Textiles, Udyog Bhawan,
New Delhi-110001.

(By Advocate: Mr. Amit Sinha with Mr. R.N. Singh)
Versus

1. Union of India
Ministry of Textiles,
Udyog Bhawan,
New Delhi-110001
(Through : its Secretary)
2. The Development Commissioner of Handlooms,
Ministry of Textiles,
Udyog Bhawan,
New Delhi-110001.

(By Advocate: Ms. Avinash Kaur)

ORDER (ORAL)**Mr. K.N.Shrivastava, Member (A)**

The applicants joined the Development Commissionerate of Handlooms (Respondent No.2) as LDC in the year 1993. Subsequently, they were promoted to the grade of UDC in the years 2004-2006 respectively.

2. The applicants have approached this Tribunal in the instant OA seeking the following specific reliefs :-

- (i) declare the letters/orders No.2001/152/87-DCH/Estt.I dated 3rd July, 2014 (Annexure-A (colly) impugned as illegal, arbitrary and contrary to settled law on the subject and consequently quash the same;
- (ii) declare that the applicants are entitled to benefits of MACP in Pay band-II of Rs.9300-34800/- with Grade Pay of Rs. 4,200 on the basis of their promotional hierarchy.
- (iii) direct the respondents herein to grant the benefits of MACP in Pay band-II of Rs. 9300-34800—with Grade Pay of Rs.4,200/- to the applicants herein on the basis of their promotional hierarchy with effect from their date of eligibility respectively with arrears of pay and interest @ 12% p.a. thereon

3. The claim of the applicants is that they should have been promoted under the MACP scheme, in the promotional hierarchy, to the grade of Assistant carrying the grade of Rs. 4200/-. Their grievance is that they have not been promoted in the promotional hierarchy and have been given the financial upgradation to a lower grade pay of Rs. 2800/- vide impugned Annexure A (colly) order dated 03.07.2014.

4. Heard the arguments of learned counsel for the parties today. The learned counsel for the applicants submit that the applicants are entitled for financial upgradation under the MACP scheme in the promotional hierarchy. In this regard, he has placed reliance on the order of this Tribunal in OA No. 864/2014 dated 12.03.2014 as also on the judgment of High Court of Punjab & Haryana at Chandigarh in CWP No. 19387/2011 decided on 19.10.2011.

5. The respondents in their impugned communication to the applicants dated 03.07.2014 Annexure-A (colly), have informed them that under the MACP scheme, financial upgradation is to be given to the next grade pay and accordingly they have been financially upgraded in the grade pay of Rs.2800/-. Regarding the judgements referred to in Para (4) supra, the said communication states that the reliefs granted in those judgements are specific to the applicants therein and as such those judgments cannot be made applicable to the instant case. In other words, it is stated in Annexure-A (colly) that the judgments mentioned in Para (4) supra are judgments in persona and not judgement in rem.
6. Learned counsel for the respondents submits that the financial upgradation under MACP is given to the next grade pay and not in the promotional hierarchy. He further submits that subsequent to the impugned Annexure A (colly) communication dated 03.07.2014, both the applicants have been promoted to the grade of Assistants (Grade pay of Rs. 4200) w.e.f. 01.09.2014.
7. We have perused the scheme of MACP. We are fully convinced that financial upgradation under the scheme is to be given to the next grade pay and not in the promotional hierarchy. As such we do not find any infirmity in the Annexure A(colly) communication of the respondents.
8. Furthermore, applicants have already been promoted to the grade of Assistants having the grade pay of Rs. 4200/- w.e.f. 01.09.2014.
9. Taking into consideration the totality of the matter, we do not find any merit in the OA and the same is dismissed. No order as to costs.

(K.N.Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

