

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 4502/2013

This the 24th day of November, 2016

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)**

1. Pooran Chandra Khulbe
S/o Sh. RD. Khulbe
R/o A-85, New Ashok Nagar,
Delhi-110096
2. Ms. Harpreet Kaur D/o Sh. M. Singh
R/o B-13/9, Chhatterpur Extension,
New Delhi-110029
3. Smt. Nisha Gupta
W/o Sh. S.K. Gupta,
R/o F-55, Arjun Nagar,
Near Safdarjang,
New Delhi-110029
4. Sanjeev Kumar Saxena
S/o Late Sh. S.K. Saxena,
R/o K.V. No. 2, Staff Quarters,
No. 70, Delhi Cantt.- 110010
5. Kedar Singh Baura
S/o Late Sh. A.S. Baura,
R/o KVS Staff Quarters,
3/24, Sector 33 Noida (U.P)
6. Umesh Chandra Pandey,
S/o Sh. PN. PAndey,
R/o KV No. 2, Staff Quarters No. II/8,
Parade Ground Road, Agra Cantt.
Agra.
7. Satish Chandra S/o Sh. Raghuvir Singh,
R/o 9/26, Bahar Sahara States,
Jankipuram,
Lucknow-226021

8. Pawan Kumar Sharma,
S/o Late Sh. Om Prakash Sharma,
R/o E-502, Shri Hari Residency,
Near Sakar School, New CG Road,
Chandkheda,
Ahmedabad.
9. Ambaji S/o Sh. M. Mahadev Rao,
R/o HB-15, KVS Staff Qtrs, Type III/4,
3rd Floor, Sec.3, Salt Lake,
Kolkata-700106
10. Smt. R. Hareni W/o H. S. Srikanth
R/o KVS RO Staff Qtrs,
Type-II/10, K. Kamraj,
Bangalore-560042
11. Smt. Renuka Sonkar,
W/o Sh. Hansraj Sonkar,
H.No. 8-5-162/5, F.No.1,
Saptagiri Homes, Mallikarjuna
Colony Old Bowen Pally
Secundabad-II.Applicants

(By advocate: Mr. Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Human Resources Development
(Department of School Education & Literacy),
Shastri Bhawan,
New Delhi.
2. The Commissioner,
Kendriya Vidyalaya Sangathan
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016
3. The Assistant Commissioner (Estt.)
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016
....Respondents

(By advocate: Mr. U.N. Singh)

ORDER (ORAL)

By Shri P.K. Basu, Member (A):

The applicants, who are Hindi Translators and Sr. Hindi Translators, were in the pre-revised scale of Rs. 5500-9000 and 6500-10500 respectively. They were granted first MACP w.e.f 04.11.2009 after adoption of MACP Scheme by KVS vide Office Memorandum dated 09.02.2011 but made applicable w.e.f 01.09.2008. The applicants were granted the first financial upgradation to grade pay 4600 w.e.f 04.11.2009 which was later withdrawn vide order dated 25.02.2013 on the ground that the audit section of the KVS, have found that not to be in order. The pay of the applicants were accordingly refixed vide memorandum dated 05.06.2013. This OA has been filed challenging these orders and with the following prayer:-

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 25.02.2013, dated 17.04.2013, dated 05.06.2013 and all other orders by which the respondents decided to withdraw the first financial up-gradation to the applicants by counting the promotion of the applicants from the posts of Translator, PBII+GP Rs. 4200/- to the post of Senior Translator PB-II grade pay Rs. 4200/- declaring to the effect that the same are illegal, arbitrary, against the MACP Scheme and against the principle of natural justice and consequently pass an order directing the respondents to restore and to grant the first financial up-gradation to the applicants as per MACP Scheme by ignoring the promotion of the applicants from the posts of Translator PB-II GP Rs. 4200/- to the posts of Senior Translator PB-II+GP Rs. 4200/- from due date in PB-II=GP Rs. 4600/- with all consequential benefits including the arrears of difference of pay and allowances.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation."

2. Memorandum dated 05.06.2013 and 17.04.2013 are the orders issued by the respondents re-fixing their pay. The MACP guideline in Annexure 1 para 5 provides as follows:-

"5. Promotions earned/upgradations granted under the ACP Scheme in the past to those grades which now carry the same grade pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradation under Modified ACPS.

Illustration-I

The pre-revised hierarchy (in ascending order) in a particular organization was as under:-

Rs. 5000-8000, Rs. 5500-9000 & Rs. 6500-10500.

- (a) *A Government servant who was recruited in the hierarchy in the pre-revised pay scale Rs. 5000-8000 and who did not get a promotion even after 25 years of service prior to 1.1.2006, in his case as on 1.1.2006 he would have got two financial upgradation under ACP to the next grades in the hierarchy of his organization, i.e. to the pre-revised scales of Rs. 5500-9000 and Rs. 6500-10500.*
- (b) *Another Government servant recruited in the same hierarchy in the pre-revised scale of Rs. 5000-8000 has also completed about 25 years of service, but he got two promotions to the next higher grades of Rs. 5500-9000 & Rs. 6500-10500 during this period.*

3. The respondents in their reply have stated that the scale for the posts of Hindi Translator and Sr. Hindi Translator were revised to 5500-9000 PB-2 GP 4200 and 6500-10500 PB 2 GP 4600, respectively, w.e.f. 04.11.2009. It is stated that the earlier pay scale

of Hindi Translator and Sr. Hindi Translator were 4500-7000 and 5000-8000 respectively and under the 6th CPC, they were in different Grade Pay of Rs. 2800/- and 4200/- respectively.

4. The argument of the respondents are primarily that the pay scales of Rs. 5000-8000, 5500-9000 and Rs. 6500-10500 were merged w.e.f. 01.01.2006 and not prior to 01.01.2006. Therefore, effectively the promotion granted from Hindi Translator to Sr. Hindi Translator earlier would be counted for MACP purposes.

5. Clearly in this case para 5 of the MACP guidelines would apply and the promotion granted from the post of Hindi Translator (Rs. 5500-9000) to that of Sr. Hindi Translator (Rs. 6500-10500) has to be ignored due to merger of these grades on the 6th CPC recommendations. The OA is, therefore, allowed and order dated 25.02.2013, 17.04.2013 and 05.06.2013 are quashed and set aside. The respondents are directed to restore the first upgradation granted earlier w.e.f. 04.11.2009 in the grade pay 4600 within 90 days from the receipt of a certified copy of this order. No costs.

(Raj Vir Sharma)
Member (A)

(P.K. Basu)
Member (J)

/daya/