

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

O.A. No. 4046/2014  
M.A. No. 3536/2014

Reserved on : 12.01.2016  
Pronounced on : 27.01.2016

**HON'BLE MR. JUSTICE SYED RAFAT ALAM, CHAIRMAN  
HON'BLE MR. P.K. BASU, MEMBER (A)**

1. K.L. Puri,  
Aged 52 years,  
S/o Late Shri R.L. Puri,  
R/o H.No. 118, Type-Iv,  
Sector-XII, R.K. Puram,  
New Delhi.  
Posted at : SSB, Force Head Quarter,  
R.K. Puram, New Delhi  
as Joint Area Organiser.
  
2. P.S. Bisht,  
Aged 55 years,  
S/o Late Shri T.S. Bisht,  
R/o 67, Type-IV, Sector-III,  
Sadiqnagar, New Delhi-110049.  
Posted at : SSB, Force Head Quarter,  
R.K. Puram, New Delhi  
as Joint Area Organiser.
  
3. Smt. Amrita Mitra,  
Aged 49 years,  
D/o Late Shri T.K. Ghosh,  
R/o C/o N.K. Das College Para  
Falakata, District Alipurduar,  
West Bengal  
Posted at : O/o the Area Organiser, SSB,  
Falakata, West Bengal as Joint Area Organiser.
  
4. P.B. Chhetry,  
Aged 53 years,  
S/o Shri Dal Bahadur Chhetry  
On Deputation to BPR&D, New Delhi  
as Assistant Director.  
R/o 67, Type-Iv, Sector-III,  
Sadiqnagar, New Delhi-110049.

5. B.S. Tharkoti,  
Aged 53 years,  
S/o Late Shri Nandan Singh,  
R/o 1096, Type-IV, Sector-IV,  
R.K. Puram, New Delhi  
Posted at : Office of the Area Organiser,  
SSB, Kokrajhar, Assam  
as Joint Area Organiser.
  
6. S.S. Thapa,  
Aged 52 years,  
S/o Late Shri Aita Singh Thapa,  
R/o 286-A, Dakra (Garhi),  
Dehradun, Uttrakhand,  
Posted at : O/o the Area Organiser,  
SSB, Birpur, District-Supaul  
Bihar-854340 as Joint Area Organiser.
  
7. Shubendu Shah,  
Aged 48 years,  
S/o Shri Nirendra Nath Shah,  
R/o Cold Storage Building,  
Near Modern English School,  
Balrampur, Uttar Pradesh  
Posted at : O/o the Area Organiser,  
SSB, Balrampur, Uttar Pradesh  
as Joint Area Organiser.
  
8. B.K. Roy,  
Aged 54 years,  
S/o Late Shri Dharm Nath Roy,  
R/o Prasad Bhawan,  
Kati Choraha, Bahraich,  
Uttar Pradesh  
Posted at : O/o the Area Organiser,  
SSB, Bahraich, Uttar Pradesh  
as Joint Area Organiser.
  
9. Gian Chand,  
Aged 59 years,  
S/o Shri Norbu Ram,  
R/o Type-III, SSB Area Complex,  
Lohaghat, District-Champawat,  
Uttarakhand  
Posted at : O/o the Area Organiser,  
SSB, Lohaghat Area, District-Champawat,  
Uttarakhand as Joint Area Organiser.

10. Rabinder Nath,  
Aged 54 years,  
S/o Late Shri Kishori Lal Sharma,  
R/o Navin Galla Mandi,  
Near Tuthiabari Chauraha,  
P.S. Nautanwa, District-Maharajganj,  
Uttar Pradesh  
Posted at : Office of the Area Organiser,  
SSB, Maharajganj at Nautanwa,  
Uttar Pradesh  
as Joint Area Organiser.
  
11. P.P. Thakur,  
Aged 51 years,  
S/o Shri B.J. Thakur,  
R/o Area Organiser Complex,  
SSB, Raxaul, District-West Champaran, Bihar  
Posted at : Office of the Area Organiser,  
SSB, Raxaul, District-West Champaran, Bihar  
as Joint Area Organiser.
  
12. N.S. Negi,  
Aged 52 years,  
S/o Shri B.S. Negi,  
R/o 1079, Type-IV, Sector-III,  
R.K. Puram, New Delhi-110066  
Posted at : O/o the Dy. Inspector General,  
SSB, Srinagar, J&K  
as Joint Area Organiser/Staff Officer.
  
13. Ajay Uniyal,  
Aged 49 years,  
S/o Shri S.P. Uniyal,  
R/o 606, Type-IV, Sector-III,  
R.K. Puram, New Delhi-110066  
Posted at : Intelligence Training School,  
SSB, Ghittorni, P.O. Arjungarh, New Delhi  
as Joint Area Organiser/Senior Instructor.
  
14. L.P. Nautiyal,  
Aged 55 years,  
S/o Late Shri B.P. Nautiyal,  
R/o SSB Academy Campus,  
Srinagar, Gharwal, Uttarakhand  
as Joint Area Organiser.

15. J.C.S. Kapkoti,  
Aged 52 years,  
S/o Late Shri Uttam Singh Kapkoti,  
R/o CI & JW School Campus,  
SSB, Gwaldam, Distt. Chamoli,  
Uttarakhand.  
Posted at : CI & JW School, SSB  
Gwaldam, Distt. Chamoli,  
Uttarakhand  
as Joint Area Organiser.
16. S.K. Sajwan,  
Aged 52 years,  
S/o Late Shri S.S. Sajwan,  
S.S. Aviation Research Centre,  
Posted at : Cabinet Secretariat,  
East Block-V, R.K. Puram,  
New Delhi-110066  
as Assistant Director.
17. V.K. Loshali,  
Aged 52 years,  
S/o Shri H.B. Loshali,  
R/o Type V-I, SB, 5-12,  
Indra Nagar, Sector-19,  
Lucknow, Uttar Pradesh  
Posted at :  
O/o the Deputy Commissioner, SB  
5-12, Indra Nagar, Sector-19,  
Lucknow, Uttar Pradesh  
as Deputy Commissioner.
18. T. Sering Dorje,  
Aged 49 years,  
S/o Late Shri Lamga,  
R/o Sankat Mochan Colony,  
Ward No.2, Gushala Road,  
Madhubani, Bihar  
Posted at : Office of the Area Organiser,  
SSB, Madhubani, Bihar  
as Joint Area Organiser.
19. M.S. Negi,  
Aged 50 years,  
S/o Shri D.S. Negi,  
R/o 67, Type-IV, R.K. Puram,  
New Delhi

Posted at : Assistant Director (Sports)  
 Cabinet Secretariat,  
 R.No.7, Bikaner House Annexe,  
 Shahjahan Road, New Delhi.

20. J.R. Bhardwaj,  
 Aged 59 years,  
 S/o Late Shri Ganga Ram,  
 R/o Area Organiser Complex,  
 SSB, Pilibhit, Uttar Pradesh  
 Posted at :  
 Office of the Area Organiser,  
 SSB, Pilibhit, Uttar Pradesh  
 As Joint Area Organiser. .. Applicants

(By Advocate : Shri Rajinder Kumar)

Versus

1. Union of India,  
 Through the Secretary,  
 Ministry of Home Affairs,  
 North Block, New Delhi.
2. The Secretary,  
 Department of Expenditure,  
 Ministry of Finance,  
 North Block, New Delhi.
3. The Secretary,  
 Department of Personnel & Training,  
 North Block, New Delhi.
4. The Director General,  
 Sashastra Seema Bal,  
 Force Headquarters,  
 East Block-5, R.K. Puram,  
 New Delhi-110066. .. Respondents

(By Advocate : Shri Rajeev Kumar)

## **ORDER (ORAL)**

### **By Hon'ble Mr. P.K. Basu**

The applicants joined as Circle Organiser in Sashastra Seema Bal (SSB) during the period 1989-1990. The following table would clarify their carrier progression and claim:

Year	Subject Matter	MACP	Promotion
1989-90	Appointment of Applicants as Circle Organiser in the pay scale of Rs.2000-3200		
1993	1 <sup>st</sup> Promotion		Promoted as Sub Area Organiser in the pay scale of Rs.2000-3500, which was revised to Rs.8000-13500 after the 5 <sup>th</sup> CPC
2003	Financial upgradation	Due for 2 <sup>nd</sup> financial upgradation, but given on 01/09/2008 in PB-3 carrying a Pay Scale of Rs. 15,600-39,100 with Grade Pay of Rs.6600/-	
2011-13	Promotion		Promoted to the post of Joint Area Organiser in PB-3 carrying a Pay Scale of Rs.15,600-39,100 with Grade Pay of Rs.6600/-
2013	Financial upgradation	Due for 3 <sup>rd</sup> financial upgradation	

2. The applicants' claim is that they have stagnated continuously for a period of around 18 to 20 years in one rank due to non-availability of vacant posts in the next promotional post of Joint Area Organiser.

3. The Modified Assured Carrier Progression Scheme (MACPS) became effective from 01.09.2008 and under the Scheme, an employee is eligible for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> financial upgradation in case he does not get any promotion. This was introduced as an anti-stagnation measure.

4. The dispute between the parties is that the applicants' claim that since they have completed 10 years of service starting 2003 and ending 2013, they should be considered for next financial upgradation, i.e. 3<sup>rd</sup> financial upgradation, in 2013 itself. They made representation before the respondents and the respondents have rejected their representation vide impugned orders dated 18.09.2013 and 05.09.2014. Primarily, the rejection has been based on the Department of Personnel & Training (DoPT) clarification, which is contained in their order dated 05.09.2014, which reads as under:

"The 3<sup>rd</sup> MACP is intended to be given based on either 10 years from the 2<sup>nd</sup> MACP/Promotion or 30 years of the overall service. Either of these two conditions needs to be fulfilled. The 2<sup>nd</sup> MACP has rightly been given on 01.09.2008 – the date of effect of the MACPS itself. Now either 10 years from 01.09.2008 or overall 30 years service will need to be fulfilled for grant of the 3<sup>rd</sup> MACP."

5. Being aggrieved by these orders, the applicants have filed this O.A. seeking the following relief(s):

- “a) For setting aside and quash the impugned orders dated 18/09/2013 and 05/09/2014 of the Respondent No.4 denying the grant of 3<sup>rd</sup> financial upgradation from the due date to the Applicants.
- b) To grant the Applicants 3<sup>rd</sup> financial upgradation from the year 2013 i.e. on promotion of 10 years of regular service from 2003, with arrears including interest @ 12% per annum till its realisation by the Applicant.
- c) To grant any other relief or reliefs as may the Hon’ble Tribunal deem fit and proper in the facts and circumstances of the case, and
- d) To grant cost of litigation to the Applicant.”

6. In support of their claim, the applicants have drawn our attention to Para 28 of Annexure-I of the MACPS guidelines in which certain illustrations have been given and our attention is drawn to illustration 28(A)(i), which reads as follows:

“28.A(i) If a Government servant (LDC) in PB-1 in the Grade Pay of Rs.1900 gets his first regular promotion (UDC) in the PB-I in the Grade Pay of Rs.2400 on completion of 8 years of service and then continues in the same Grade Pay for further 10 years without any promotion then he would be eligible for 2<sup>nd</sup> financial upgradation under the MACPS in the PB-I in the Grade Pay of Rs.2800 after completion of 18 years (8+10 years).”

It is, therefore, claimed that as per this provision, the respondents should not wait for completion of 30 years and the moment the applicants complete 10 years in the same grade pay, which condition according to them they fulfil as they have been stagnating between 2003 and 2013 in the same scale.

7. Per contra, the respondents have referred to the same guidelines but to para 28(C), which reads as follows:

“28(C) If a Government servant has been granted either two regular promotions or 2<sup>nd</sup> financial upgradation under the ACP Scheme of August, 1999 after completion of 24 years of regular service then only 3<sup>rd</sup> financial upgradation would be admissible to him under the MACPS on completion of 30 years of service provided that he has not earned third promotion in the hierarchy.”

It is, therefore, argued that the two basic conditions to be fulfilled for 3<sup>rd</sup> financial upgradation under MACPS are that the employee has to either complete 10 years from the 2<sup>nd</sup> MACP/promotion or 30 years of overall service. Since the 2<sup>nd</sup> MACP has rightly been given w.e.f. 01.09.2008, the date of effect of MACPS itself, the applicants have to either complete 10 years service from 01.09.2008 which would be 01.09.2018, or on completion of 30 years of service which would be in 2019 to 2020, for grant of 3<sup>rd</sup> financial upgradation under MACPS.

8. Heard the learned counsels for the parties and examined the MACPS guidelines.

9. The 1<sup>st</sup> paragraph of the MACPS guidelines itself is clear on what the scheme is. We quote below this para for easy reference:

“There shall be three financial upgradations under the MACPS, counted from the direct entry grade on completion of 10, 20 and 30 years service respectively. Financial upgradation under the Scheme will be admissible whenever a person has spent 10 years continuously in the same grade-pay.”

10. There is no contradiction between 28(A)(i) and 28(C). The fact is that the applicants' case does not get covered by 28(A)(i) at all because they could be granted the 2<sup>nd</sup> upgradation only w.e.f. 01.09.2008, i.e. the date from which MACPS has became effective. Para 28(C) makes it abundantly clear that unless they complete 30 years of service, they cannot earn the 3<sup>rd</sup> financial upgradation under the MACPS. Para 1 of the MACPS guidelines quoted above also makes it clear that, in the alternative, they have to complete 10 years continuous service in the same grade pay starting from 2008, which they have not.

11. We are, therefore, of the clear opinion that the applicants have wrongly interpreted the MACPS guidelines and raised this claim. We see no merit in the O.A. and, therefore, the same is dismissed. No costs.

**(P.K. Basu)**  
**Member (A)**

**(Syed Rafat Alam)**  
**Chairman**

/Jyoti/