

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE

ORIGINAL APPLICATION No. 170/00120/2017

TODAY, THIS THE 14th DAY OF SEPTEMBER, 2018

HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER

1. MES-130465,
Sri K. Gopinathan,
Peon,
Aged about 59 years,
S/o Kuppuswamy,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
2. MES-604041,
Sri K. Gopalaraju,
Peon,
Aged about 47 years,
S/o Kemparanaiah,
O/o the Garrison Engineer (AF),
Jalahalli,
Bengaluru - 560 013
3. MES-604042,
M. Sidda Raju,
Peon,
Aged about 45 years,
S/o. Madduraiah,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
4. MES-604043,
K. Shantharaju,
Peon,
Aged about 44 years,
S/o. Kadaiah,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
5. MES-604331,
R. Thirunathan,
Peon,
Aged about 49 years,

S/o P. Raghavan,
O/o. The Garrison Engineer (AF),
Military Engineer Services,
HQ Trg. Comd, IAF Campus,
Hebbal, Bengaluru – 560 006

6. MES-604327,
J. Vijaya Kumar,
Peon,
Aged about 57 years,
S/o P. John,
o/o the C.W.E (AF), North
JC Nagar Post,
Bellary Road,
Mekri Circle,
Bengaluru – 560 006
7. MES-604333,
N. Rajashekar,
Peon,
Aged about 44 years,
S/o B. Narashimaya,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
8. MES-604047,
B. Hemachandra,
Peon,
Aged about 38 years,
S/o. B. Babu Naidu,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
9. MES-604355,
R. Jagadisha,
Peon,
Aged about 44 years,
S/o R. Ramakrishna,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
10. MES-604356,
B. Satish Kumar,
Peon,
Aged about 43 years,
S/o B. Bettappa Naidu,
O/o. The Chief Engineer (AF),

No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022

11. MES-604357,
Sri B.C.Manjunatha,
Peon,
Aged about 41 years,
S/o Chikkathimmaiah,
O/o. The Garrison Engineer (M),
Air Force, Jalahalli,
Bengaluru – 560 013
12. MES-604048,
Anthony C,
Peon,
Aged about 38 years,
S/o Chinnappa,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
13. MES-604348,
S. Siddaraju,
Peon,
Aged about 46 years,
S/o B. Siddappa
O/o. The Garrison Engineer (AF),
Military Engineer Services,
HQ Trg. Comd, IAF Campus,
Hebbal, Bengaluru – 560 006
14. MES-604049,
Thomas Chacko,
Peon,
Aged about 42 years,
S/o K.V. Chacko,
O/o. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
15. MES-604057
S. Narayana,
Peon,
Aged about 37 years,
S/o Subbanna
O/o. the Garrison Engineer (AF),
Marathahalli,
Bengaluru – 560 037

.... Applicants.

(By Advocate Shri N.G. Phadke)

Vs.

1. Union of India
Represented by its Secretary
Ministry of Defence
South Block,
New Delhi – 110 001
2. Engineer-in-chief
Army Headquarters
Kashmir House
Rajaji Marg
New Delhi – 110 011
3. The Chief Engineer
Head Quarters,
Southern Command,
Military Engineer Services
Pune – 411 001
4. The Chief Engineer (AF),
No 2, D.C. Area,
MES Road, Yashwanthpur,
Bengaluru – 560 022
5. The Commander Works Engineer (AF), North,
Military Engineer Services,
Bellary Road, JC Nagar Post,
Bengaluru – 560 006
6. The Garrison Engineer (Maint) AF,
M.E.S., Jalahalli,
Bengaluru – 560 013
7. The Garrison Engineer (AF),
Military Engineer Services,
HQ Trg. Comd, IAF Campus,
Hebbal, Bengaluru – 560 006
8. The Garrison Engineer (AF),
Marathahalli, M.E.S.,
Kepapura, Yemalur PO,
Bengaluru – 560 037
9. Ministry of Personnel,
Public Grievances & Pensions,
(Dept. of Personnel and Training)
Government of India, North Block,
New Delhi – 110 001.
Represented by its Secretary

... Respondents.

(By Advocate Shri S. Sugumaran)

ORDER**Hon'ble Shri Dinesh Sharma, Administrative Member**

The applicants are working as Peons in the Ministry of Defence for more than ten years. The case of the applicants is that they have been stagnating from the date of their joining the service in the same post of Peon. They are entitled to get MACP benefits by way of upgradation in their Grade Pay and Pay Band. They have been given upgradation only to the next Grade Pay and not in the next Pay Band. This is, according to them, a wrong interpretation of the Office Memorandum of the Department of Personnel and Training, New Delhi, dated 19.05.2009 (Annexure A-1). The applicants have also requested for condonation of delay, if any, in filing this application, since they, belonging to the lowest strata of Government, assumed the Government actions to be correct.

2. The respondents have denied the claim of the applicants. According to them, the applicants have been granted MACP as per their entitlement. The claim of the applicants is based on incorrect interpretation of the Government order.

3. After going through the pleadings and hearing the arguments, it is clear that the main issue is about interpretation of the language of the O.M dated 19.05.2009 by which the MACP was introduced. We are quoting the relevant portion of Annexure-1 of this O.M. here :

"2. The MACPS envisages merely placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay as given in Section 1 , Part-A of the first schedule of the CCS (Revised Pay) Rules, 2008. Thus, the grade pay at the time of financial upgradation under the MACPS can, in certain cases where regular promotion is not between two successive grades, be different than what is available at the time of regular promotion. In such cases, the higher grade pay attached to the next promotion post in the hierarchy of the concerned cadre/organisation will be given only at the time of regular promotion."

3. The learned counsel for the applicants argues that the words “next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay” can only mean that the person is entitled not only to the higher Grade Pay but also the higher Pay Band in the hierarchy of the Pay Bands. A careful reading of the O.M. will show that this is a very contrived interpretation of the language. If there is any doubt about what is meant by this language, it would clear by reading the illustration given in the same O.M. The first one of the illustrations is quoted below:-

“A (i) If a Government servant (LDC) in PB-I 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 2nd financial upgradation under the MACPS in the PB-I in the Grade Pay of Rs.2800 after completion of 18 years (8+10 years).”

(emphasis added by underlining PB-1)

If there was still any issue about what could have been meant by next higher Grade Pay in the hierarchy of the recommended pay bands and grade pay, it could become very clear by taking a look at Section-1, Part-A of the first Schedule of the CCS (Revised Pay) Rules, 2008, to which the MACPS refers in paragraph 2 (quoted in paragraph 3 above).

**“THE FIREST SCHEDULE
(SEE RULES 3 & 4)
PART – A
SECTION-I**

Present Scale			Revised Pay structure		
Sl. No.	Post/ Grade	Present Scale	Name of Pay Band/ Scale	Corresponding Pay Bands/Scales (Rs.)	Corresponding Grade Pay(Rs)
1	2	3	4	5	6
1	S-1	2550-55-2660-60-3200	-1S	4440-7440	1300
2	S-2	2610-60-3150-65-3540	-1S	4440-7440	1400
3	S-2A	2610-60-2910-65-3300-4000	-1S	4440-7440	1600
4	S-3	2650-65-3300-70-4000	-1S	4440-7440	1650

5.	S-4	2750-70-3800-75-4400	PB-1	5200-20200	1800
6	S-5	3050-75-3950-80-4590	PB-1	5200-20200	1900
1	2	3	4	5	6
7	S-6	3200-85-4900	PB-1	5200-20200	2000
8	S-7	4000-100-6000	PB-1	5200-20200	2400
9	S-8	4500-125-7000	PB-1	5200-20200	2800
10	S-9	5000-150-8000	PB-2	9300-34800	4200
11	S-10	5500-175-9000	PB-2	9300-34800	4200
12	S-11	6500-200-6900	PB-2	9300-34800	4200
13	S-12	6500-200-10500	PB-2	9300-34800	4200
14	S-13	7450-225-11500	PB-2	9300-34800	4600
15	S-14	7500-250-12000	PB-2	9300-34800	4800
16	S-15	8000-275-13500	PB-2	9300-34800	5400
17	New Scale	8000-275-12500(Group-A Entry)	PB-3	15600-39100	5400
18	S-16	9000	PB-3	15600-39100	5400
19	S-17	9000-275-9550	PB-3	15600-39100	5400
20	S-18	10325-325-10975	PB-3	15600-39100	6600
21	S-19	10000-325-15200	PB-3	15600-39100	6600
22	S-20	10650-325-15850	PB-3	15600-39100	6600
23	S-21	12000-375-16500	PB-3	15600-39100	7600
24	S-22	12750-375-16500	PB-3	15600-39100	7600
25	S-23	12000-375-18000	PB-3	15600-39100	7600
26	S-24	14300-400-18300	PB-4	37400-67000	8700
27	S-25	15100-400-18300	PB-4	37400-67000	8700
28	S-26	16400-450-20000	PB-4	37400-67000	8900
29	S-27	16400-450-20900	PB-4	37400-67000	8900
30	S-28	14300-450-22400	PB-4	37400-67000	10000
31	S-29	18400-500-22400	PB-4	37400-67000	10000
32	S-30	22400-525-24500	HAG Scale	67000 – (annual increment @ 3% - 79000)	Nil
33	S-31	22400-600-26000	HAG+Scale	75500 – (annual increment @ 3% - 80000)	Nil
34	S-32	24050-650-26000	HAG+Scale	75500 – (annual increment @ 3% - 80000)	Nil
35	S-33	26000 (Fixed)	Apex Scale	80000 (Fixed)	Nil
36	S-34	30000 (Fixed)	Cab. Sec.	90000 (Fixed)	Nil

4. Looking at this schedule, alongwith the illustration, will make it amply clear what was intended by the Office Memorandum dated 19.05.2009, when the words “hierarchy of the recommended revised Pay Bands and Grade Pay” were used. We, therefore, do not think there is any logic for granting the claim as requested by the applicants. The O.A is, therefore, rejected. No orders as to costs.

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

(DR. K.B. SURESH)
JUDICIAL MEMBER

Cvr.

Annexures filed by the applicant in O.A:

Annexure-A1: Copy of OM dated 19.05.2009 MACP Scheme
Annexure-A2: Copy of OM dated 09.09.2010 clarifications as to MACPS
Annexure-A3: Copy of representation dated 26.09.2016
Annexure-A4: Copy of representation dated 20.10.2016
Annexure-A5: Copy of 2nd respondent's letter of response dated 13.10.2016
Annexure-A6: Copy of 2nd respondent's letter of response dated 12.01.2017
Annexure-A7: Copy of 2nd respondent's letter of response dated 12.01.2017

Annexures filed alongwith reply statement by the respondents:

Annexure-R1: Copy of statement showing grant of ACP/MACP benefits
Annexure-R2: Copy of Part II Order
Annexure-R3: Copy of Part II Order dated 27.06.2017
Annexure-R4: Copy of Part II Order dated 21.08.2017