

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**Pronounced on : 08.08.2018
 Reserved on : 12.07.2018**

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

(I) OA No. 060/00238/2017

1. MES No.155173, Karnail Singh Jandu, aged 68 years s/o Late S. Karta Singh, Junior Engineer E/M (Retd.), Office of Garrison Engineer, Chandigarh R/O Flat No. 2674-C, MIG Super, Sector 70, Mohali (Punjab), Group 'C'.
2. MES No. 507639, Harbhajan Singh, Aged 70 years, S/O Late S. Rattan Singh, Junior Engineer E/M (Retd.) O/O Garrison Engineer, Air Force, Chandigarh, R/O H. No. 2035, Sector 69, Mohali (Pb)-160062, Group 'C'.
3. MES 507507, Kartar Singh, Aged 67 years S/O S. Waryam Singh, Junior Engineer E/M (Retd.)O/O Chief Engineer, Pathankot Zone, Pathankot, R/O H. No. 109, Model Town, Opposite Govt. Primary School,Pathankot-145001, Group 'C'.
4. MES No. 507499, Inder Mohan Singh, Aged about 66 years, S/O Inderjit Singh, Junior Engineer E/M (Retd.)O/O Garrison Engineer (South), Udhampur R/O H. No. 511, New GTB Nagar, Jalandhar City-144003.
5. MES No. 507498, Satwinder Singh S/O S. Joginder Singh, Junior Engineer E/M (Retd.), O/O Garrison Engineer (Project), New Amritsar Military Station, Amritsar R/O H. No. 66A, Inderjit Colony, Gokal Ka Bagh 100 FT Road, Amritsar.
6. MES No. 507510, Sohan Lal Verma, Aged 69 years S/O Sh. Naurata Ram, Junior Engineer E/M (Retd.) O/O CWE, Pathankot, R/O H.No. 12, Engineers Enclave, Near Kaka Colony, Street No. 1, Patiala (Pb.).

...Applicants

BY ADVOCATE: Sh. R.K. Sharma

Versus

1. Union of India, through the Secretary to Government of India, Ministry of Defence, South New Delhi.
2. Engineer-in-Chief, Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.
3. Director General (Pers.) Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.

4. Chief Engineer, Western Command, Chandimandir, Panchkula.
5. Chief Engineer, Northern Command, Udhampur(J&K).
6. Principal Controller of Defence Accounts, Western Command, Sector 9, Chandigarh.

...Respondents

BY ADVOCATE: **Sh. Sanjay Goyal**

(II)OA No. 060/00280/2017

1. MES No.314439, Mahan Singh, aged 71 years S/O Sh. Rai Singh, Junior Engineer E/M (Retd.), Office of Chief Engineer, Jalandhar Zone, Jalandhar R/O Mohalla Gurusar, Ward No. 2, Post Office, Tehsil and District Una(H.P.), Group 'C'.
2. MES No. 507554, Mangat Singh, Aged 71 years, S/O S. Kartar Singh, Junior Engineer E/M (Retd.) O/O Chief Engineer, Pathankot Zone, Pathankot, R/O Village Panjhera Rayya, Post Office Mansoorpur, District Hoshiarpur, Group 'C'.

...Applicants

BY ADVOCATE: **Sh. R.K. Sharma**

Versus

1. Union of India, through the Secretary to Government of India, Ministry of Defence, South New Delhi.
2. Engineer-in-Chief, Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.
3. Director General (Pers.) Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.
4. Chief Engineer, Western Command, Chandimandir, Panchkula.
5. Chief Engineer, Northern Command, Udhampur(J&K).
6. Principal Controller of Defence Accounts, Western Command, Sector 9, Chandigarh.

...Respondents

BY ADVOCATE: **Sh. Sanjay Goyal**

(III)OA No. 060/00281/2017

1. MES No. 507500, Shakti Sharn Dass, Aged 68 years S/O Sh. Gurdev Krishan, Ex. Junior Engineer, E/M, Office of Garrison Engineer (Utility), Chandimandir Cantt., resident of House No. 745, Sector 21, Panchkula, Haryana, Group 'C'.
2. MES No.314485, Devinder Kumar, Aged 74 years S/O Sh. Dhanpat Rai, Ex. Junior Engineer, E/M retired from HQ. CWE

Chandimandir, resident of Flat No. 36, GH-3, M.D.C., Sector 5, Panchkula-134109, Group 'C'.

...Applicants

BY ADVOCATE: **Sh. R.K. Sharma**

Versus

1. Union of India, through the Secretary to Government of India, Ministry of Defence, South New Delhi.
2. Engineer-in-Chief, Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.
3. Director General (Pers.) Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.
4. Chief Engineer, Western Command, Chandimandir, Panchkula.
5. Principal Controller of Defence Accounts, Western Command, Sector 9, Chandigarh.

...Respondents

BY ADVOCATE: **Sh. Sanjay Goyal**

(IV) OA No. 060/00282/2017

MES No. 171194 Som Nath Erry, aged 73 years S/o Late Sh. Manak Chand, Junior Engineer (E&M) (Retd.), O/o Office of Garrison Engineer, Kapurthala R/o C/o V.K. Pathak, Kothi No. 407, Phase I, Mohali – 160055 (Group C)

...Applicant

BY ADVOCATE: **Sh. R.K. Sharma**

Versus

1. Union of India, through the Secretary to Government of India, Ministry of Defence, South New Delhi.
2. Engineer-in-Chief, Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.
3. Director General (Pers.) Army Headquarters, Kashmir House, Rajaji Marg, DHQ PO, New Delhi-110011.
4. Chief Engineer, Western Command, Chandimandir, Panchkula.
5. Principal Controller of Defence Accounts, Western Command, Sector 9, Chandigarh.

...Respondents

BY ADVOCATE: **Sh. Sanjay Goyal**

ORDER

BY MRS. P. GOPINATH, MEMBER(A):-

As common facts of law of allotment of dates of first and second ACP and third MACP are involved in all these four OAs, we proceed to decide these four OAs through a common order. However, for the sake of convenience, we are taking facts of OA No. 060/00238/2017 as a lead case as it covers issues raised in the other three OAs.

2. Applicants started service in Beas Construction Board (BCB) as Sectional Officer (Mechanical) in the scale of pay of Rs. 700-1200 in year 1967, 1970, 1971 and 1973 & 1978. Dates of joining are important for determining 12 and 24 years for ACP and 30 years for third MACP. In terms of Punjab Reorganization Act, the applicants were surrendered to the Surplus Cell in December, 1984 and were redeployed in the respondent department in December, 1985 on varying dates. Applicants on joining were given the pay scale of Rs. 425-700, subsequently revised to Rs. 1400-2300 on 01.01.1986.

3. The original employees of MES filed OAs No. 1337 & 1364-75 of 1994 before the Bangalore Bench claiming parity with Junior Engineers of CPWD in the scale of Rs. 1640-2900 after five years of service, Rs. 2000-3500 after 15 years of service. The Bench after holding parity of MES applicants with Junior Engineers of CPWD allowed the OA vide judgement dated 31.03.1995. Applicants were also granted benefit of the judgement w.e.f. the date of re-deployment

and without giving them the benefit of service rendered in BCB.

Hence, Vth CPC pay scale of MES employees including applicants is a decided matter.

4. Some colleagues of the applicants who were also redeployed with MES, approached the Tribunal in OA No. 739/CH/1994 titled **R.D. Dhiman & Ors. Vs. UOI & Ors.** for counting of service rendered by them in BCB and grant of scale Rs. 1640-2900 after five years of service and Rs. 2000-3500 after fifteen years of service. The OA was allowed vide order dated 29.11.1996 and the SLP filed by the Department was rejected and the judgement was complied by the respondent MES. Thus, the service of applicants in BCB is counted, in all cases, where years of service was the criteria for disbursal of benefits.

5. Consequently, applicant alongwith others filed an OA No. 130/PB/2004 for similar benefits as above titled Amrik Singh and Ors. Vs. UOI & Ors. which was allowed by this Tribunal vide order dated 02.09.2004. Applicants No. 2-5 in this OA filed a similar OA No. 950/PB/2004 which was also allowed. The respondents granted the benefit of higher scale of Rs. 1640-2900 and Rs. 2000-3500 which was revised to Rs. 5500-9000 and Rs. 6500-10500 w.e.f. 01.01.1996. Thus, counting of BCB service and pay parity with BCB employees are issues already adjudicated and decided in favour of applicants.

6. The President of India was pleased to sanction the re-designation of the applicants' post as Junior Engineer (Civil) and

granted scale of Rs. 5500-9000 after five years and Rs. 6500-10500 after 15 years.

7. On the introduction of ACP, the applicants became entitled for second ACP which was denied by the respondents on various grounds including non-possessing of degree required for promotion to the post of Executive Engineer. In the meantime, the original employees of the respondent department filed OA No. 540 and 595 to 634 of 2002 before the Bangalore Bench. The Tribunal in its judgement dated 25.11.2002, clarified that as the applicants were already in the Grade of Assistant Engineer and the amendment of Recruitment Rules prescribing qualification of Degree for the post of XEN was introduced on 09.07.1991. Hence applicants in the OAs having joined on various dates between 1965 and 1973, complete 24 years prior to amendment of recruitment rules in 1991 prescribing qualification of degree for the post of XEN, and hence are eligible for 2nd ACP on completion of 24 years, , without the degree educational qualification.

8. Applicants were also granted the 2nd ACP w.e.f. the date of entitlement in scale of Rs. 10,000-15,200 after counting the service in BCB. In the meantime, the pay scales of BCB employees were revised on the basis of judgements rendered in OA No. 253-CH-1991 decided on 09.02.2000 making the applicants entitled to pay scale of Rs. 2000-3500 w.e.f. 01.01.1986. The applicants in this OA being redeployed to the respondent department in the year 1985, one year before the above 1.1.1986, date of entitlement, are similarly entitled.

9. Applicants argue that their first and second ACP are required to be revised w.e.f. 01.01.1986 to the pay scale of Rs. 2000-3500.

10. Applicant No. 6 Sohan Lal Verma filed OA No. 482/PB/2007 which was allowed by the Tribunal vide order dated 15.11.2007. The respondent department filed CWP No. 3223 and 3345 of 2008 challenging the order of Tribunal which was dismissed by the High Court in judgement dated 07.09.2015. As the respondents were not implementing the judgement, CP No. 172/2015 and 180/2015 were filed. During the pendency of the CP, the respondents revised the first ACP to the pay scale of Rs. 10,000-15,200 w.e.f. 09.08.1999. The second ACP in the pay scale of Rs. 12000-16500 was not released.

11. Applicants in **OA No. 238 of 2017 titled Karnail Singh Jandu & Ors. Vs. UOI & Ors.** are aggrieved by the late grant of first ACP, non-grant of 2nd MACP and denial of 3rd MACP. Applicants Shakti Saran Das and Kartar Singh have been treated as Degree holder and Sh. Kartar Singh has been granted 2nd ACP w.e.f. 09.08.1999 and Sh. Shakti Saran Dass w.e.f. 01.04.2000 whereas applicants argue that they were not Degree holders. Applicants Sohan Lal Verma and Indermohan Singh in this OA are Degree holders and have not been considered for grant of 2nd ACP. The applicants admit that the 3rd MACP has been declined to applicant No. 5, Satwinder Singh on the ground of below bench mark APAR.

12. The respondents argue that the Departmental Screening Committee was conducted on 27.09.2016 in compliance with the orders passed by the Tribunal for grant of first and second ACP in revised pay scale of Rs. 10,000-15,200 and Rs. 12,000-16,500. So, the scale of pay for first and second ACP was also decided by the Tribunal and we need not go into it again. A panel for grant of first and second ACP of all applicants was published on 30.09.2016, produced as Annexure R-1. In this, the qualification of the applicants whether Degree or Diploma, was reflected in the said published All India list as on 01.04.2000. The bench mark for grant of scale of Rs. 10000-15200 was "Good" and for Rs. 12000-16500 was "Very Good". For the 2nd ACP, the qualifications as per RRs and bench mark ACR of "Very Good" was considered and applicants having both qualifications were granted the higher scale by the Departmental Screening Committee. Regarding Satvinder Singh's claim to 3rd MACP with Grade Pay Rs. 8700, applicant was graded "Good" which was below the bench mark of "Very Good". Applicant was given good grading in the year 2002-03, 2003-04, 2004-05 and 2005-06. The respondents follow the UPSC guidelines for DPC i.e. an individual is fit for promotion if he attains four benchmark gradings out of five ACRs under consideration. This has been prescribed by the Government of India DOP&T in their OM No. 22011/9/98-Estt.D dated 8.9.1998 read with subsequent OM of even number dated 16.06.2000.

13. Respondents produced Annexure R-5 as proof of communication of the below bench mark ACR to the applicant on 24.10.2016 with the direction to forward representation, if any to the appropriate authority. Since no representation was received, the below bench mark ACR of the applicant was taken as final. The case of Satwinder Singh was again reviewed when the fact of his AMIE qualification came to notice, but the below bench mark ACR did not come to the aid of the applicant.

14. On revision of the pay scale of ex-BCB employees to Rs. 2000-3500 w.e.f. 01.01.1986 and its applicability to the applicants as per Tribunal order in OA No. 253/CH/1991, applicants No. 1-5 filed OA No. 431/CH/2006 and applicant No. 6 filed OA No. 482/PB/2007 in this Tribunal for extension of the benefit of the Tribunal order in OA No. 253/CH/1991 for grant of pay scale of Rs. 2000-3500 w.e.f. 01.01.1996 with consequential benefits. The OA was decided in favour of the applicants vide orders dated 30.05.2007 and 15.11.2007. In compliance, the competent authority accorded sanction in principal vide letter dated 22.02.2016 and revised the pay of the applicants in the scale of Rs. 2000-3500 w.e.f. 01.01.1986. First and second ACP have been granted to all applicants vide E-in-C's Branch letter dated 30.09.2016 in the promotional hierarchy of MES on 09.08.2016 in the scale of pay of Rs. 10000-15200 (EE) and Rs. 12000-16500 (SE OG) on completion of 12 and 24 years of service and third MACP have been granted on completion of 30 years of service vide E-in-C's Branch letter dated 07.10.2016.

S.No.	Name of Applicant	Effective date of 1 st ACP in the scale of Rs. 10000-15200	Effective date of 2 nd ACP in the scale of Rs. 12000-16500	3 rd MACP in the scale of Rs. 37000-67000 + Grade Pay 8700	Remarks
(a)	155173, Sh. Karnail Singh Jandu, JE E/M (Retd)	09.08.1999	01.04.2003	01.09.2008	Diploma
(b)	507639 Sh. Harbhaajan Singh, JE E/M (Retd)	09.08.1999	02.08.2000	NA	Diploma
(c)	507507 Sh. Kartar Singh, JE E/M (Retd.)	09.08.1999	09.08.1999	01.09.2008	AMIE
(d)	507499 Sh. Inder Mohan Singh, JE E/M(Retd.)	09.08.1999	01.04.2001	01.09.2008	AMIE
(e)	507498 Sh. Satwinder Singh, JE e/m (Retd.)	09.08.1999	09.08.1999 (In lieu of 2.8.2000) Revised DPC	ACR Grading below bench mark	AMIE
(f)	507510 Sh. Sohan Lal Verma, JE E/M (Retd)	09.08.1999	02.08.2000	- do -	AMIE

From the above table, Bench notes that the first ACP, 2nd ACP and 3rd MACP were granted to those who were eligible as per rules and applicants Satwinder Singh and Sohan Lal were not granted 3rd MACP on the ground of below bench mark grading.

15. It is also noted that Sohan Lal had "Good" grading for 1993-94 and 1994-95, "Very Good" grading for 1995-96 and 1996-97 and "Average" grading from 01.04.1997 to 05.07.1997 and again "Very Good" grading from 07.07.1997 to 31.03.1998. Second ACP was granted to Sohan Lal w.e.f. 02.08.2000 and not 09.08.1999.

16. Applicant relies on Annexure A-14 judgement in OA No. 799/PB/2012 titled **Shishuwanti Vs. UOI** where the issue was non-communication of ACR for the years 2004-05 and 2007-08. The Tribunal had ordered ignoring these ACRs in the case of Shishuwanti. As brought out above, the below bench mark grading in the case of Satwant Singh were communicated to the applicant after his retirement and hence Shishuwanti judgement would be applicable.

17. There are two applicants in **OA No. 060/00280/2017** who were granted the pay scale of Rs. 10000-15200 on grant of first ACP and Rs. 12000-16500 on grant of 2nd ACP. The respondents do not oppose the claim of the applicants and state that they are entitled to 2nd ACP w.e.f. 09.08.1999. Thus, applicants together with others had sought the same relief as in OAs No. 759/2006 and 431/2006 and were granted the first and second ACP on completion of 12 and 24 years on the directions of the Tribunal in OA No. 253/1991 decided on 09.02.2000 and OA No.759/2006 filed by the applicant alongwith others for grant of pay scale of Rs. 10000-15200 w.e.f. 09.08.1999 and Rs. 12000-16500 w.e.f. 01.04.2001 and arrears on account of increased pay and allowances had also been paid to the applicants alongwith increased pension and gratuity on 19.04.2016. The difference of leave encashment upto the date of retirement had also been paid to the applicants on 31.03.2006 and there is nothing more to be given to the applicant and the OA is dismissed.

18. The applicant in **OA No. 060/00282/2017** is similarly placed as applicants in the previous OA. The first ACP was granted in the promotional hierarchy of MES as on 09.08.1999 in the pay scale of Rs. 10000-15200 (scale of Executive Engineer) on completion of 12 years of service. The arrears on account of increased pay and allowances have been paid to the applicant. The applicant retired voluntarily from service on 31.08.2003 and his pension and gratuity was revised as per revised fixation of pay and grant of first ACP by PCDA Pension Allahabad. The 2nd financial upgradation was not admissible to the applicant as his ACR grading for the years 1999-2000, 2000-2001, 2001-2002, 2002-2003 & 2003-2004 was “Good” whereas the bench mark for the scale Rs. 12000-16500 is “Very Good”. Photocopies of the ACRs of the applicant were sent vide GE Kapurthala letter dated 07.01.2017 and no representation was received. The reason for late communication of ACR may be on account of early voluntary retirement of the applicant on 31.08.2003. However, we note that subsequently the ACRs were belatedly communicated and the applicant did not respond.

19. It is necessary to recall the terms and conditions for grant of MACP upgradation, before we proceed with the judgment, for grant of 3rd MACP. These are as under:-

- (i) Financial upgradation under the MACP is purely personal to the employee and shall have no relevance to seniority position or comparison with any other person and will also not be a functional promotion.
- (ii) The eligibility criteria including bench mark would have to be met by all eligible persons.

The Bench interprets this as the eligibility criteria existing at the time of completion of 12 & 24 years.

- (iii) Para 2 of the MACP Scheme merely envisages placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay as indicated in Section I Para 'A' of the first schedule of CCS Revised Pay Rules, 2008.
- (iv) Thus, MACP was not intended to provide the beneficiary with the grade pay of the promotional post, but only the immediate next higher grade pay in the hierarchy.
- (iv) For the purpose of upgradations under the MACP, the bench mark of "Good" would be applicable till the Grade Pay of Rs. 6600 in PB 3. The bench mark will be "Very Good" for upgradation to Grade Pay of Rs. 7600 and above.

Having brought out all the facts of the case and its relevance, we now proceed to decide the relief sought.

20. The one issue that stares at us is that the qualifying period for ACP and MACP would include the service with BCB. Hence, the qualifying service of 12/24/30 years for ACP/MACP should include the service with BCB. The Scheme does not preclude the service rendered in an earlier Central Government department when qualifying service is to be calculated. The ACP Scheme being given at 12 and 24 years is required to be calculated from the date of joining BCB and the respondents are required to calculate the same accordingly and grant the benefits.

21. Applicants Sh. Harbhajan Singh and Sh. Sohan Lal Verma in OA No. 238/2017, Sh. Devender Kumar and Sh. Mahan Singh in OA No. 280/2017 and Sh. Som Nath Erry in OA No. 282/2017, having retired on 30.04.2007, 31.08.2008, 28.02.2003, 31.03.2006 and 31.08.2003 respectively, are not eligible for MACP,

as they had retired much before the introduction of the MACP scheme on 01.09.2008. Till 31.08.2008, only ACP scheme was applicable. Hence, these applicants' prayer for grant of MACP is not admissible as they were not in service as on 01.09.2008 the date of operation of MACP Scheme.

22. The applicant Satwinder Singh in OA No. 238/2017 had a below bench mark grading of "Good". Applicant was required to have "Very Good" grading for grant of 3rd MACP in Grade Pay of Rs. 8700. The below bench mark grading was communicated to the applicant on 24.10.2016 (Annexure R-5), several years after retirement on 31.08.2009. Hence, in view of Apex Court judgement in similar matters, the below bench mark grading for the years 2002-03, 2003-04 and 2005-06 is required to be ignored and ACRs of earlier years be taken into account while considering the applicants' case for MACP. This is being ordered in view of several judicial pronouncements ignoring the un-communicated ACRs.

23. Further, the applicants are entitled for ACP as per Government of India scheme on completion of 12 and 24 years of service. The applicants have already obtained orders from this Tribunal that their service in BCB will be counted by MES for granting ACP benefits.

24. In order to understand the applicants' claim under ACP Scheme introduced by Government of India on 09.08.1999, it is necessary to understand the basic features of the Scheme which are as follows:-

- Placement in higher pay scales
- First ACP is allowed after 12 years on regular service and second ACP after another 12 years of regular service from the date of first financial upgradation
- Fulfilment of normal promotional norms like benchmark, departmental examination etc. required to be fulfilled for grant of ACP. Financial upgradation under the Scheme shall be given to the next higher grade in accordance with existing hierarchy in a cadre.

Based on the above features of ACP Scheme, the claim of the applicants is being decided. Applicants have also got an order from the Tribunal that their service in BCB is to be counted as regular service.

25. Based on the above facts, the findings in all these OAs can be summarized as follows:-

OA No. 238/2017

(i) There are six applicants in this OA. These applicants have joined service in BCB in the period 1970-1973. Hence, they complete 12 & 24 years of service prior to introduction of the ACP Scheme and the benefit of both first and second ACP would be available to them on 09.08.1999 when the scheme was introduced as they have completed the qualifying service for both ACP by that date. The second ACP in the hierarchical pay scale existing as on 09.08.1999 is Rs. 12,000-16,500. Ordered that both ACPs be given on 09.08.1999 and 2nd ACP be given on the same date 09.08.1999 in hierarchical scale Rs. 12000-16500

(ii) Applicant Satwinder Singh having joined service in 1971 and retired on 31.08.2009 is entitled for third MACP which has been denied due to below bench mark grading. Applicant already stands retired and this bench mark was never communicated to the applicant during his service. Hence, the 3rd MACP be given to the applicant by ignoring the un-communicated below bench mark grading and ordered accordingly.

(iii) Applicants Harbhajan Singh and Sohan Lal Verma are not entitled for MACP benefit as they were not in service on 01.09.2008, the date of introduction of MACP Scheme and their prayer for third MACP is dismissed.

OA No. 280/2017

(i) There are two applicants in this OA who have joined service in years 1967 and 1971 and complete 12 and 24 years prior to introduction of the ACP Scheme. Hence, they are entitled for first and second ACP on 09.08.1999, the date of introduction of the ACP Scheme. The second ACP be given in the hierarchical pay scale existing as on 09.08.1999 Rs. 12,000-16,500.

(ii) Applicants Mahan Singh and Mangat Singh are not entitled for MACP benefit as they were not in service on 01.09.2008, the date of introduction of MACP Scheme. Hence, their prayer for third MACP is dismissed.

OA No. 281/2017

(i) There are two applicants in this OA who have joined service in years 1970 and 1967 and complete 12 and 24 years prior to introduction of the ACP Scheme. Hence, they are entitled for first and second ACP on 09.08.1999, the date of introduction of the ACP Scheme. The second ACP be given in the hierarchical pay scale existing as on 09.08.1999 Rs. 12,000-16,500.

(ii) Applicant Shakti Sharan Dass retired on 31.12.2008 and becomes eligible for 3rd MACP on the date of completion of 30 years by counting the service in BCB and MES and ordered accordingly.

(iii) Applicant Devinder Kumar is not eligible for benefit under the MACP Scheme as he retired on 28.02.2003 much before the introduction of MACP Scheme.

OA No. 282/2017

(i) There is only one applicant in this OA who has joined service in year 1973 and completes 12 and 24 years prior to introduction of the ACP Scheme. Hence, he is entitled for first and second ACP on 09.08.1999, the date of introduction of the ACP Scheme. The second ACP be given in the hierarchical pay scale existing as on 09.08.1999 Rs. 12,000-16,500.

(ii) The applicant retired on 31.08.2003 much before the introduction of MACP Scheme and is not eligible for any MACP benefit. This applicant has also been declared unfit due to below bench mark grading which was not communicated to him. Hence, the respondents will ignore the below bench mark APR and consider the applicant on the basis of five gradings excluding the below bench mark and grant the ACP benefits to him. Ordered accordingly.

26. The prayer of all the applicants for first and second ACP on 09.08.1999 in pay scale of Rs. 14300-18300 is not allowed as the said scale was not in existence on 09.08.1999. This scale was introduced w.e.f. 02.08.2000 much after the grant of ACP benefits to the applicant. The prayer for second ACP in scale of pay Rs. 14300-18300 is dismissed.

27. With the foregoing directions, all four OAs stands disposed of with detailed orders as in paras 25 and 26 above with no order as to costs.

28. A copy of this judgement be placed in the other connected OAs as well.



**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Dated:
ND*