

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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ORIGINAL APPLICATION NO. 060/00603/2017

Chandigarh, this the 8th day of May, 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

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1. Gurbachan Singh, age about 53 years, S/o Late Sh. Maghar Singh, Lower Division Clerk O/o Area Depot Manager, CSD Bathinda Cantt. R/o H.No.525, V&PO Bhucho Khurd near Gurudwara Nanak Sahib, District Bathinda. **(Group C)**
2. Raja Singh, age about 49 years, S/o Sh. Gurdev Singh, Lower Division Clerk O/o Area Depot Manager, CSD Bathinda Cantt. R/o H.No.536, V&PO Bhucho Khurd near Gurudwara Nanak Sahib, District Bathinda. **(Group C)**
3. Bikkar Singh, age 53 years, S/o Sh. Zora Singh, Lower Division Clerk O/o Area Depot Manager, CSD Bathinda Cantt. R/o H.No.205, V&PO Bhucho Khurd near Gurudwara Nanak Sahib, District Bathinda. **(Group C)**
4. Mithu Singh, age 59 years, S/o Sh. Balbir Singh, MTS Mazdoor O/o Area Depot Manager, CSD Bathinda Cantt. R/o V&PO Gurthali, District Bathinda. **(Group D)**
5. Lal Singh, age 56 years, S/o Late Sh. Maghar Singh, MTS Mazdoor O/o Area Depot Manager, CSD Bathinda Cantt. R/o V&PO Bhucho Khurd near Gurudwara Nanak Sahib, District Bathinda. **(Group D)**
6. Gurcharan Singh, age 59 years, S/o Late Sh. Buta Singh, MTS Mazdoor O/o Area Depot Manager, CSD Bathinda Cantt. R/o V&PO Bhucho Khurd near Gurudwara Nanak Sahib, District Bathinda. **(Group D)**
7. Luxmi Ram, age 56 years, S/o Late Sh. Khelwan Ram, Lower Division Clerk, O/o Area Depot Manager. CSD Bathinda cantt. R/o CSD colony, Bathinda. **(Group C)**
8. Smt. Jaswant Kaur wd/o Late Sh. Pargat Singh, Mts Mazdoor O/o Area Depot Manager, CSD Bathinda Cantt. R/o. H.no.536, V&PO Bhucho Khurd near Gurudwara Nanak Sahib, District Bhatinda. **(Group D)**

....APPLICANTS

(Argued by: Shri Barjesh Mittal, Advocate)

VERSUS

1. Union of India through its Secretary, Ministry of Defence, Govt. of India, Parliament Street, New Delhi.
2. General Manager, Govt. of India, Ministry of Defence, Canteen Stores Department, "ADELPHI" 119, M.K. Road, Mumbai 400020.
3. Regional Manager (North), Govt. of India, Ministry of Defence, Canteen Stores Department, Bari Brahmana, District Samba (J&K).

....RESPONDENTS

(By Advocate: Shri Ram Lal Gupta)

ORDER (Oral)**SANJEEV KAUSHIK, MEMBER (J)**

By means of present Original Application (O.A.), the applicants have sought the following relief(s):-

"(iii) Respondent no.2 be directed to count the applicants daily rated service as casual Mazdoor from their initial date of engagement and add the same with their regular service as Group D MTS Mazdoor for the purpose of grant of benefit of financial upgradation under ACP and MACP Scheme in terms of Judgments Annexure A-1 to A-7 and further grant them the benefit of financial upgradation with the consequential benefits and arrears thereof along with 10% interest p.a. within the time frame to be fixed by this Hon'ble Tribunal."

2. Mr. Barjesh Mittal, learned counsel appearing on behalf of applicants submits that the controversy involved in the present O.A. has already been considered and decided in favour of the applicants in O.A. No. 1609/HR/2013- decided on 15.5.2014 and O.A. 1439/PB/2012- Ravi Kumar Saraf and Ors. Vs. Union of India & Ors. decided on 2.8.2013. He submitted that on consensual statement made therein by learned counsel for the parties the matter was disposed of vide order dated 27.8.2014 in O.A. NO. 060/245/2014- Rakesh Kumar & Ors. Vs. Union of India & Ors. wherein the respondents were directed to review the cases of the applicants therein regarding date from which ACP/MACP benefits

are to be allowed in the light of decisions relied upon by the applicants. He also argues that the Hon'ble Bombay High Court in case of Union of India and Anr. Vs Karan Anant Purao in Writ Petition (L) No. 2012 of 2012 decided on 24.7.2013 has also decided the similar issue. He submitted that the matter travelled up to Hon'ble Supreme Court in SLP No. 10226/2015 filed by Union of India, which was dismissed on 16.7.2014 (Annexure A-5). It is thereafter the applicants approached the respondents by submitting representations for grant of similar relief as has been allowed in the case of similarly placed persons, copy annexed as (Annexure A-10 colly), which has not been answered by the respondents till date.

2. Respondents have filed written statement, wherein they have raised preliminary objection that the O.A. is barred by time as the applicants have not approached the Tribunal within the time.

3. Mr. Mittal, learned counsel for applicants submitted that since the representation (Annexure A-10) filed by the applicants is pending unanswered, therefore, let at this stage the matter be disposed of with a direction to respondents to decide their representation by passing a reasoned and speaking order thereon and while deciding the same they shall take into consideration the ratio of law laid down in the relied upon cases.

4. Mr. Gupta, learned counsel representing the respondents did not object to the prayer made by the learned counsel for applicants. However, he submitted that they will consider their representation subject to preliminary objection with regard to limitation which

they have raised in their written statement. He also submitted that respondents be granted 2 months time to decide the same.

5. Considering the ad idem between the parties, we are of the view that ends of justice would be met if at the first instance, respondents be directed to consider claim of applicants by deciding their pending representation. Accordingly, the respondents are directed to take a decision on the pending representation of applicants by taking into consideration the ratio of the law laid down in the relied upon cases and also the law laid down in the case of **State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors.** Civil Appeal No. 9849/2014 decided on 17.10.2014. They are free to raise preliminary objection with regard to limitation. Let the above exercise be carried out within a period of 2 months from the date of receipt of certified copy of this order.

6. The disposal of this O.A. will not be construed as an expression on the merit of the case.

7. The O.A. stands disposed of with the above direction.

(UDAY KUMAR VARMA)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 08.05.2018

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