

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A No.722 of 2015 & other OAs in the Batch

Present : Hon'ble Mr. Gokul Chandra Pati, Member(A)
Hon'ble Mr. Swarup Kumar Mishra, Member(J)

O.A.No. 722 of 2015

G.S.Patnaik, aged about 47 years, S/o Late V.S.Patnaik, at present working as Senior TIA, Office of FA & CAO, E.Co. Rly., Chandrasekharpur, Bhubaneswar, R/o B.62, Dayal Nagar, Visakhapatnam-530043, Andhra Pradesh.

O.A.No. 723 of 2015

Md. Tayabuddin, aged about 60 years, S/o late
Mahammad Salumudda, at present working as Senior TIA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Vill/PO- Bhairpur, Via – Bahugram, Dist. – Cuttack – 754200, Odisha.

O.A.No.724 of 2015

J.V.Rajeswari, aged about 52 years, W/o J.Tirumala Nath, at present working as Senior Section Officer (A), Office of FA & CAO, E.Co.Rly., Chandrasekharpur, Bhubaneswar, R/o Dr. No.43-4-4, Flat No.5, CV Dlight Apartment, Subba Laxmi Nagar, Visakhapatnam-530016.

O.A.No.725 of 2015

P.R.S.Goutam, aged about 51 years, S/o Rajeswara Rao, at present working as Senior ISA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Srinivasa Residency, 4th Floor, A Block, TIC Point, Arilova, Visakhapatnam-530040, Andhra Pradesh.

O.A.No.726 of 2015

B.V.Satish, aged about 46 years, S/o B.Kameswara Rao, at present working as Senior Section officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Flat No. 102, Sai Brundavan Residency, PM Palem Last Bus Stop, Visakhapatnam – 530041, Andhra Pradesh.

O.A.No.727 of 2015

J.V.K.Sekhar, aged about 54 years, S/o Late J.Viswanadham, at present working as Senior TIA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Dr.No.49-35-16/A, SFS, Laxmi Nilayam Apartments, NGGO's Colony, Akkayyapalem, Visakhapatnam, Andhra Pradesh.

O.A.No.728 of 2015

N.Chandra Sekhar, aged about 47 years, S/o Late N.Prabhakar, at present working as Senior TIA, O/o FA & CAO, E.Co.Rly., Chandrasekharpur, Bhubaneswar, R/o Flat No. 404, NU Symphony Apartments, Sector-11, MVP Colony, Visakhapatnam-530017, Andhra Pradesh.

O.A.No.744 of 2015

E.V.K.Sivanand, aged about 52 years, S/o E.Ramam, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Dr.No.49-36-33, NGGO's Colony, Akkayyapalem, Visakhapatnam, Andhra Pradesh.

O.A.No.745 of 2015

K.Srinivas, aged about 49 years, S/o K.S.Sastry, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Dr.No.45-51-9, Abid Nagar, Akkayyapalem, Visakhapatnam-530016, Andhra Pradesh.

O.A.No. 746 of 2015

Manoj Kumar Rath, aged about 54 years, S/o Late Sakaleswar Rath, at present working as Senior TIA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Plot Nio. 1509/2398, Mahatab Road, Old Town, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No. 747 of 2015

A.P.Shyam, aged about 53 years, S/o Anim Umapati, at present working as Senior Section Officer (A), Office of FA & CAO, Est Coast Railway, Chandrasekharpur, Bhubaneswar, resident of Dr. No.43-5-45A/6, Sai Sadan Residency, New Railway Colony, Visakhapatnam-530010, Andhra Pradesh.

O.A.No. 748 of 2015

Dilip Mohapatra, aged about 52 years, S/o Dasarathi Mohapatra, at present working as Senior TIA, office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Plot No.14, KIIT Square, Patia, Bhubaneswar-751024, Dist. – Khurda, Odisha.

O.A.No. 749 of 2015

Madhabananda Bhatt, aged about 51 years, S/o Late Sanatan Bhatt, at present working as a Senior SO(A), Office of FA & CAO/East Coast Railway/Chandrasekharpur Bhubaneswar, R/o Plot No. N/3, Netaji Subash Enclave, Gadakana, Bhubaneswar – 751017, Dist. _ Khurda, Odisha.

O.A.No. 750 of 2015

Sarat Chandra Das, aged about 54 years, S/o Sambhu Charan Das, at present working as a Senior TIA, office of FA & CAO/East Coast Railway/Chandrasekharpur, Bhubaneswar, R/o Plot No. N/5-449, IRC Village, Bhubaneswar- 751015, Dist. – Khurda, Odisha.

O.A.No. 751 of 2015

Akshaya Kumar Rout, aged about 53 years, S/o Late Karunakar Rout, at present working as Senior TIA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Qr. No.D/68/G, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No. 752 of 2015

V.Raghavendra Rao, aged about 44 years, S/o V.Hanumantha Rao, at present working as Senior ISA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Flat No. 407, Rail Vihar Apartments, Near YNCA, Kirlampudi layout, Visakhapatnam – 530017, Andhra Pradesh.

O.A.No. 753 of 2015

V.C.S.S.Rao, aged about 45 years, S/o V.V.Krishna Rao, at present working as Senior ISA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Flat No. 302, Vinayagar, West Avenue, Dr. No.9-19-36, CBM Compound, Visakhapatnam-530003, Andhra Pradesh.

O.A.No. 754 of 2015

K.V.Anand, aged about 51 years, S/o Kuppili Adinarayana, at present working as Senior Section officer (A), Office of FA & CAO, East Coast Railway,

Chandrasekharpur, Bhubaneswawr, R/o Rly.Qr. No. 476/A, Wireless Colony, Opp. APEPDCL Office, Dondaparthi, Visakhapatnam-530004, Andhra Pradesh.

O.A.No.755 of 2015

V.Sitaram, aged about 47 years, W/o N.V.N.Sarma, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Dr. No.22-104-13, Tummalapalli Vari Street, Town Kotha Road, Near Reading Room, Visakhapatnam – 530001, Andhra Pradesh.

O.A.No.756 of 2015

M.Sridhar, aged about 49 years, S/o M.B. Satyanarayana, at present working as Senior ISA, Office of FA & CAO, E.Co.Rly., Chandrasekharpur, Bhubaneswar, R/o Plot No. 107, Dr. No. 10/94, Vishalashinagar, Near Post Office, Visakhapatnam – 530040, Andhra Pradesh.

O.A.No.757 of 2015

B.V.Satyanarayana, aged about 64 years, S/O Late B.Rama Rao, retired Senior Section Officer (A), Office of FA & CAO, E.Co.Rly., Chandrasekharpur, Bhubaneswar, R/o Dr. No. 49-8-17/7, FF3, Simhagiri Towers, Lalita Nagar, Visakhapatnam-530016, Andhra Pradesh.

O.A.No. 765 of 2015

Susarla Nageswara Rao, aged about 62 years, S/o S.V. Suryanarayana, retired Senior Section Officer (A), Office of FA & CAO, E.Co. Rly., Chandrasekharpur, Bhubaneswar, R/o S.E.Railway Qr.No.548/2, Jail Area, Dondaparti,Visakhapatnam-530004, Andhra Pradesh.

O.A.No.766 of 2015

G.Srinivas Rao, aged about 63 years, S/o Late GAdi Jagannadha Rao, retired Senior Section Officer (A), Office of FA & CAO, E.Co. Rly., Chandrasekharpur, Bhubaneswar, R/o Dr. No.11-102, Durga Nagar, RRV Puram, Vishakhapatnam – 530029, Andhra Pradesh.

O.A.No. 767 of 2015

U.Rajagopalum, aged about 62 years, W/o V.Rajagopalan, retired Senior Section Officer (A), Office of FA & CAO, E.Co. Rly., Chandrasekharpur, Bhubaneswar, R/o Dr. No.45-52-1, Abid Nagar, Akkayyapalem, Visakhapatnam – 530016, Andhra Pradesh.

O.A.No.775 of 2015

Rama Chandra Rout, aged about 57 years, S/o Gobardhan Rout, at present working as Senior TIA, Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, Permanent resident of At/PO – Nuagaon, Via – Jajpur Road, Dist. – Jajpur – 755019, Odisha.

O.A.No.776 of 2015

Sidheswar Sahoo, aged about 53 years, S/o Jhulan Sahoo, at present working as Senior Section Officer (A), Office of FA & CAO/Con., East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Qr. No.V/73/F, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.777 of 2015

Suresh Chandra Nayak, aged about 56 years, S/o Late Pravakar Nayak, at present working as Senior Section officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Plot No.4699/27, C/o Kalpana Swain, Adimata Colony, PO – Mancheswar, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.778 of 2015

Bibhuti Bhusan Mohanty, aged about 62 years, S/o Late Jadumani Mohanty, retired Senior ISA, Office of FA & CAO, E.Co.Rly., Chandrasekharpur, Bhubaneswar, R/o Vill – Girima, PO – Biratunga, Dist. – Puri, Odisha.

O.A.No.780 of 2015

Chitta Ranjan Mishra, aged about 60 years, S/o Late Shyama Kanta Mishra, at present working as AFA(G), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Qr. No. BM-100, Plot GA-32, Basudev mansion, Defence Colony, Niladri Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.781 of 2015

Sukanta Kumar Jena, aged about 51 years, S/o Baidhar Jena, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Qr. No.D/74/F, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.782 of 2015

Deba Prasad Khuntia, aged about 51 years, S/o Late Gadadhar Khuntia, present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Raja Bajar, Jatni, Dist. – Khurda – 752050, Odisha.

O.A.No.783 of 2015

Nirmal Chandra Sarangi, aged about 50 years, S/o Janardan Sarangi, at present working as Senior Section Officer (A), Office of FA & CAO/Con., East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Qr. No.D/49/S, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.784 of 2015

Ms. Dipti Rekha Brahma, aged about 52 years, D/o Late Hari Hara Brahma, at present working as Senior Section Officer (A), Office of Senior AFA/RE, Rail Vihar, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o 5/D, Block-B, Trishna Manor, Nayapali Nuasahi, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.790 of 2015

Basanta Kumar Barik, aged about 60 years, S/o Late Pitambar Barik, at present working as Senior Section officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Plot No.-1140, Mahanadi Vihar, Chauliaganj, Dist. – Cuttack, Odisha.

O.A.No.799 of 2015

Kulamani Pani, aged about 58 years, S/o Late kalakar Pani, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Qr. No.,D/12/G, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.800 of 2015

Bijaya Kumar Shasani, aged about 56 years, S/o Late Gopinath Shasani, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Plot No. 4699/26, Adimata Colony,PO-Mancheswar Railway Colony, Bhubaneswar, Dist.– Khurda, Odisha.

O.A.No.801 of 2015

Kumar Chandra Tripathy, aged about 52 years, S/o Dibakar Tripathy, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast

Railway, Chandrasekharpur, Bhubaneswar, R/o Plot No. 3652/5725, Rangamatia Upar Sahi, PO – Mancheswar Railway Colony, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.820 of 2015

Mirza Tahir Baig, aged about 51 years, S/o Late Mirza Taiyab Baig, at present working as Senior Section Officer (A), Office of FA & CAO/CON., East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Quarter No. D/54/F, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.821 of 2015

Bagambar Mishra, aged about 53 years, S/o Kshetra Mohan Mishra, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o HIG-14/6, OSHB Colony, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.822 of 2015

Manas Ranjan Khandai, aged about 48 years, S/o Late Rama Chandra Khandai, at present working as Senior Section Officer (A), Office of FA & CAO, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o GA-310, Shailashree Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.823 of 2015 Satya Narayan Sahu, aged about 52 years, S/o Lokanath Sahu, at present working as Senior Section Officer (A), Office of FA & CAO/CON, East Coast Railway, Chandrasekharpur, Bhubaneswar, R/o Quarter No.D/99/S, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. – Khurda, Odisha.

O.A.No.870 of 2015

Surendra Nath Behera, aged about 54 years, S/o Late Bhundaban Behera, at present working as Senior Section Officer (A), Office of Senior DFM/KUR, East Coast Railway, Jatni, R/o At.- Baikuntha Nagar, Second Lane, PO – Berhampur, Dist. – Ganjam – 760001.

O.A.No.881 of 2015

Gandharb Sen Moharana, aged about 56 years, S/o Late Iswar Chandra Moharana, at present working as Senior Section Officer (A), Office of Sr. DEE (TRS)/Angul under Administrative Control of Sr.DFM/East Coast Railway, Khurda Road Division, R/o VIII/PO – Baulepur, Dist. – Dhenkanal.

O.A.No.882 of 2015

Srikanta Rath, aged about 60 years, S/o Late Sripati Rath, at present working as Senior Section Officer (A), Office of Senior DFM, East Coast Railway, Khurda Road Division, At/PO – Hatni, Dist. – Khurda, R/o At/PO – Sabhamel, Dist. – Jagatsinghpur.

O.A.No.883 of 2015

Trinath Parida, aged about 65 years, S/o Late Gopinath parida, retired Senior Section Officer (A), Office of Senior DFM/KUR, E.Co.Rly., Chandrasekharpur, Bhubaneswar, R/o At/PO-Ralaba, Via – Hinjilicat, Dist. – Ganjam, Odisha.

O.A.No.892 of 2015

D. Adi Reddy, aged about 64 years, S/o D.Sanyasi, retired Senior TIA, office of FA & CAO, E.Co.Rly., Chandrasekharpur, Bhubaneswar, R/o Flat No.3/C, Vrinda Villa Apartment, S.P.Marg, R.C.Pur Bazar, PO – Jatni, Dist. – Khordha, Odisha – 752050.

O.A.No.893 of 2015

Subash Chandra Mohapatra, aged about 63 years, S/o Late K.C.Mohapatra, retired Senior Section Officer (A), Office of Senior DFM/KUR/E.Co.Rly., At/PO – Hatni, Dist. – Khurda, R/o Plot No.S/28, Mahavir Colony, Beside B.D.A.Colony, Po – Hatni, Dist. – Khurda, Odisha-752050.

O.A.No.934 of 2015

Rabindranath Mohapatra, aged about 65 years, S/o Radhakishore Mohapatra, retired Senior Section Officer (A/Cs), Office of Senior DFM/KUR/E.Co.Rly., Chandrasekhpur, Bhubaneswar, R/o Near PNB Lane, Ramachandrapur Bazar, At/PO- Jatni, Dist. – Khurda-752050, Odisha.

O.A.No.935 of 2015

Sashibhusan Mohanty, aged about 65 years, S/o Late Nityananda Mohanty, retired Senior Section Officer (A/Cs), Office of Senior DFM/E.Co. Rly./ Khurda Road, under FA & CAO, E.Co.Railway, Bhubaneswar, R/o S-22, Green Garden, Kalinga Vihar-K-9A, PO – Patrapada, Bhubaneswar, Dist. – Khurda-751019, Odisha.

.....**Applicants.**

VERSUS

Respondents common for the following OAs :

OA 722, 723, 724, 725, 726, 727, 728, 744, 745, 747, 752, 753, 754, 755, 756, 757, 765, 766, 767, 775, 776, 777, 778, 781, 782, 783, 784, 820, 821, 822, 823, 870, 881, 882, 883, 892, 893, 934, 935 of 2015

1. Union of India, represented through the General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
2. Financial Advisor & Chief Accounts Officer/East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
3. Deputy Director, Pay Commission-V, Rail Bhawan, Railway Board, New Delhi – 110001.

Respondents common for OA 746, 748, 751 of 2015 :

1. Union of India, represented through the General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
2. Financial Advisor & Chief Accounts Officer/East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
3. Deputy Director, Pay Commission-V, Rail Bhawan, Railway Board, New Delhi – 110001.
4. Secretary, Railway Board, Rail Bhawan, New Delhi – 110001.
5. Sri Kishore Chandra Subudhi, S/o Banabihari Subudhi, Senior TIA, Office of FA & CAO, E.Co.Rly., Bhubaneswar, Dist. – Khurda.

Respondents for OA 749 of 2015

1. Union of India, represented through the General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
2. Financial Advisor & Chief Accounts Officer/East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
3. Deputy Director, Pay Commission-V, Rail Bhawan, Railway Board, New Delhi – 110001.
4. Secretary, Railway Board, Rail Bhawan, New Delhi – 110001.

5. Sri P.K.Sahoo, Office of FA & CAO, E.Co.Rly., Bhubaneswar, Dist. – Khurda.

Respondents for OA 750 of 2015

1. Union of India, represented through the General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
2. Financial Advisor & Chief Accounts Officer/East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
3. Deputy Director, Pay Commission-V, Rail Bhawan, Railway Board, New Delhi – 110001.
4. Secretary, Railway Board, Rail Bhawan, New Delhi – 110001.
5. Sri P.K.Mishra, office of FA & CAO, East Coast Railway, Bhubaneswar, Dist. – Khurda.

Respondents common for OA 780, 790, 799, 800, 801 of 2015

1. Union of India, represented through the General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
2. Financial Advisor & Chief Accounts Officer/East Coast Railway, E.Co.R.Sadan, Chandrasekhpur, Bhubaneswar, Dist. – Khurda.
3. Deputy Director, Pay Commission-V, Rail Bhawan, Railway Board, New Delhi – 110001.
4. Secretary, Railway Board, Rail Bhawan, New Delhi – 110001.

.....Respondents.

For the applicants : Mr.N.R.Routray, counsel

For the respondents : Mr. T.Rath, counsel (OA 722, 723, 724, 725, 726, 751 of 2015)
 Mr.N.K.Singh, counsel (OA 727, 728, 746, 767,777 of 2015)
 Mr.R.S.Behera, counsel (OA 744, 745, 750, 752 of 2015)
 Mr.M.K.Das, counsel (OA 747, 754, 756 of 2015)
 Mr.M.B.K.Rao, counsel (OA 748, 749 of 2015)
 Mr.D.K.Behera, counsel (OA 753, 755, 765, 781 of 2015)
 Mr.R.N.Pal, counsel (OA 757, 766, 801 of 2015)
 Mrs.S.Rajaguru, counsel (OA 775, 776, 780 of 2015)
 Mr.B.K.Rao, counsel (OA 778 of 2015)
 Mr.S.K.Nayak, counsel (OA 782, 783 of 2015)
 Mr.S.Barik, counsel (OA 784, 790, 799, 800 of 2015)
 Mr.S.K.Ojha, counsel (OA 820, 821, 822 of 2015)
 Mr.D.K.Mohanty-A, counsel (OA 823, 870, 934 of 2015)
 Mr.B.B.Pattnaik, counsel (OA 881, 882, 883 of 2015)
 Dr.C.R.Mishra, counsel (OA 892, 893, 935 of 2015)

Heard & Reserved on: 24.04.2019

Order on: 13.5.2019

O R D E R

PER MR. GOKUL CHANDRA PATI, MEMBER(A) :-

The common point of dispute involved in these OAs is whether the applicants, who are the staffs of the Accounts department under the respondents-Railways, are entitled to step up their Grade Pay (in short GP) at par with their juniors whose GP has been upgraded to Rs. 5400/- under the Modified Assured Career Progression Scheme (in short referred hereinafter as 'MACPS') where as the applicant, being senior in the integrated seniority list, are drawing the GP of Rs. 4800/-. It is the case of the applicants that in spite of a number of judgments by different coordinate Benches of this Tribunal, which have been upheld by Hon'ble High Court and Hon'ble Supreme Court, the respondents have refused to consider their representations for higher GP of Rs. 5400/-, at par with their juniors who are drawing the same GP of Rs. 5400/-and in accordance with the judgments of Tribunal, which have been upheld by the higher forum. Being aggrieved, the OAs are filed with common/similar reliefs claiming higher GP of Rs.5400/- at par with their juniors.

2. Since the issues involved and main dispute in all these OAs are same for all the OAs, these were heard together with the consent of both the parties and all these OAs are being disposed of by this common order, for which the OA No. 722/2015 has been taken as the leading OA. Before we proceed to discuss the OA No. 722/2015, the basic facts and disputes in each of the OAs in this batch are discussed first as below :

2.1 O.A. No. 723 of 2015:

In this OA, the Applicant (Sl.No.42 in the integrated seniority list) was appointed initially as Clerk Grade-II on 23.01.1982. After passing the Appendix -II & III Examination, he was promoted to the post of JAA on 06.06.1986 and then to the post of Accounts Assistant (in short AA) on 01.12.1988. Thereafter, he was promoted to Sr. TIA in PB II with GP Rs. 4800/- w.e.f. 31.12.1990. On the other hand, Shri K.C.Subudhi (Sl.No.129 of the intgegrated seniority list) was appointed as JAA on 13.05.1987.Then, he was promoted to AA on 13.05.1990 and thereafter to the post of TIA on 29.08.1995. Then he was promoted to Sr.TIA on 15.09.1998. Later on, the post of TIA was merged with Sr. TIA. After merger of two posts, the date of promotion of Shri Subudhi to the post of Sr.TIA was taken as 29.08.1995. After completion of ten years of continuous service in the grade of Sr.TIA, he was granted the third financial up gradation under MACP with the GP of Rs. 5400/- compared to the GP of Rs.4800/- for the applicant.

2.2 O.A.No.724 of 2015 :

In this OA, the Applicant (Sl.No.65 in the integrated seniority list) was appointed initially as Clerk Grade-II on 13.04.1982. After passing the Appendix -II & III Examination, he was promoted to the post of JAA on 16.06.1986 and then to the post of Accounts Assistant (in short AA) on 01.12.1988. Thereafter, he was promoted to Sr. SO in PB II with GP Rs. 4800/- w.e.f. 05.11.1993. On the other hand, Shri K.C.Subudhi, Sl. No. 129 of the integrated seniority list who is getting a higher GP of Rs.5400/- as per details discussed under OA No. 723/2015 in para 2.1 of this order.

2.3 O.A.No.725 of 2015 :

In this OA, the Applicant (Sl.No.118 in the integrated seniority list) was appointed initially as Clerk Grade-II on 05.09.1988. After passing the Appendix -II & III Examination, he was promoted to the post of JAA on 12.06.1991 and then to the post of Accounts Assistant on 17.06.1994. Thereafter, he was promoted to the post of Sr. ISA in PB II with GP of Rs. 4800/- w.e.f. 21.08.1995. The applicant has compared his case with that of Shri K.C.Subudhi, (Sl.No. 129 of integrated seniority list) has been allowed the GP of Rs.5400/- as discussed under OA No. 723/2015 in para 2.1 above.

2.4 O.A.No.726 of 2015 :

In this OA, the Applicant (Sl.No.118 in the integrated seniority list) was appointed initially as Commercial Clerk in Commercial Department on 22.06.1992. He changed his category from the post of Commercial Clerk to Clerical cadre of Accounts Department and posted as CG-II. After passing the Appendix -II Examination, he was promoted to the post of JAA on 09.06.1997 and then to the post of Accounts Assistant (in short AA) on 01.08.2000. Thereafter, on passing Appendix III Examination he was promoted to the post of Sr. SO and after implementation of 6th CPC he was placed in PB-II with GP of Rs. 4800/- w.e.f. 31.12.1990. Shri B.V.Satish (Sl.No. 190 of integrated seniority list) was appointed as JAA on 30.06.1987. Then, he was promoted to AA on 31.07.1990 and thereafter to the post of Sr.ISA on 26.12.2003. On completion of ten years of continuous service in the same grade, he was granted the third financial up gradation under MACP to GP Rs. 5400/- compared to the GP of Rs.4800/- for the applicant.

2.5 O.A.No.727 of 2015 :

In this OA, the Applicant (Sl.No.86 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 07.05.1983. Thereafter, he was promoted to JAA on 28.01.1987, to AA on 02.02.1990 and Sr. TIA in PB II with GP Rs.4800/- on 22.10.1997. On the other hand, Shri

K.C.Subudhi (Sl.No. 129 of integrated seniority list) has been allowed the GP of Rs.5400/- as discussed in para 2.1 of this order.

2.6 O.A.No.728 of 2015:

In this OA, the Applicant (Sl.No.113 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 01.07.1986. Thereafter, he was promoted to JAA on 11.06.1991 and then to AA w.e.f. 17.06.1994 and Sr. TIA in PB II with GP of Rs. 4800/- on 19.06.1995. On the other hand, Shri K.C.Subudhi (Sl.No. 163 of integrated seniority list) has been allowed the GP of Rs.5400/- as discussed in para 2.1 of this order.

2.7 O.A.No.744 of 2015:

In this OA, the Applicant (Sl.No.89 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 07.03.1984. After passing Appendix II Examination he was promoted to the post of JAA on 14.09.1987 and thereafter to AA. Again after passing Appendix III examination he was promoted to TIA on 07.09.1994 and thereafter to Sr. TIA on 22.10.1997. Later on the post of TIA is merged with Sr. TIA consequent upon recommendation of 6th CPC and therefore, the applicant was placed in PB II with GP of Rs. 4800/-. Shri K.C.Subudhi (Sl.No. 129 of integrated seniority list) has been allowed the GP of Rs.5400/- as discussed in para 2.1 of this order.

2.8 O.A.No.745 of 2015 :

In this OA, the Applicant (Sl.No.121 in the integrated seniority list) was appointed initially as Junior Typist on 16.12.1987. Thereafter, he was promoted to Jr. Steno to Data Entry Operator on 10.03.1989. After passing Appendix II Examination he was promoted to the post of JAA on 12.06.1991, AA on 17.06.1994 and again after passing Appendix III Examination he joined as SO on 08.12.1995. Then he was promoted to Sr. SO on 20.03.2003. Later on the post of SO is merged with Sr. SO consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.C.Subudhi (Sl.No. 129 of integrated seniority list) has been allowed the GP of Rs.5400/- as discussed in para 2.1 of this order.

2.9 O.A.No. 746 of 2015 :

In this OA, the Applicant (Sl.No.81 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 02.09.1988. Thereafter, he was promoted to JAA on 12.06.1991 and then to AA w.e.f. 17.06.1994 and Sr. TIA in PB II with GP of Rs. 4800/- on 12.09.1994. On the other hand, Shri K.C.Subudhi (Sl.No. 129 of integrated seniority list) has been allowed higher GP of Rs.5400/- as discussed in para 2.1 of this order.

2.10 O.A.No.747 of 2015 :

In this OA, the Applicant (SI.No.153 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 21.08.1987. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 16.2.1991, AA on 16.2.1994, Section Officer on 08.09.1997 and then to the post of Sr. SO on 07.03.2006. Later the post of SO was merged with Sr. SO and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Sahoo (SI.No. 163 of integrated seniority list) was appointed as JAA. After clearing Appendix II and Appendix III Examination, he was promoted to the post of AA on 10.07.1990 and thereafter to the post of SO on 03.07.1998. Accordingly, on completion of ten years of continuous service in the same grade, he was granted the third financial up gradation under MACP to GP Rs. 5400/-.

2.11 O.A.No. 748 of 2015 :

In this OA, the Applicant (SI.No.114 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 16.3.1989. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 12.6.1991, AA on 17.6.1994, TIA on 16.6.1995 and finally promoted to Sr. TIA on 22.6.1998. Later the post of TIA was merged with Sr.TIA and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri Kishore Chandra Subudhi, (SI.No. 129 of integrated seniority list) has been allowed the higher GP of Rs.5400/- as discussed in para 2.1 of this order.

2.12 O.A.No. 749 of 2015 :

In this OA, the Applicant (SI.No.156 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 27.3.1989. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 2.7.1993, AA on 5.7.1996, SO(A) on 18.5.1998 and finally promoted to Sr. SO on 7.3.2006 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Sahoo, (SI.No. 163 of integrated seniority list) has been allowed higher GP of Rs.5400/- as discussed in para 2.10 of this order.

2.13 O.A.No.750 of 2015 :

In this OA, the Applicant (SI.No.133 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 2.9.1987. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 21.4.1989, AA on 21.4.1992 and thereafter promoted to the post of TIA on 26.8.1995 and finally promoted to Sr. TIA on 6.8.2002 and

consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Mishra, (SI.No. 141 of integrated seniority list) was appointed as JAA. After clearing Appendix II and Appendix III Examination, he was promoted from JAA to the post of AA on 16.11.1990 and second promotion from AA to Sr.SO on 7.9.1994. Accordingly, on completion of ten years of continuous service in the same grade, he was granted the third financial up gradation under MACP to GP Rs. 5400/-.

2.14 O.A.No. 751 of 2015:

In this OA, the Applicant (SI.No.116 in the integrated seniority list) was appointed initially as Jr. Trains Clerk on 20.02.1986 and on his request he was transferred to Accounts Department and posted as Clerk Grade II on 10.02.1989. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 06.09.1991, TIA on 28.08.1995 and to the post of Sr. TIA on 28.08.1998. Consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri Kishore Chandra Subudhi, (SI.No. 129 of integrated seniority list) was allowed higher GP of Rs.5400/- as discussed in para 2.1 of this order.

2.15 O.A.No.752 of 2015 :

In this OA, the Applicant (SI.No.110 in the integrated seniority list) was appointed initially as Clerk Grade-II on 01.05.1987. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 11.04.1990, AA on 13.04.1993, ISA on 19.04.1995 and then to the post of Sr. ISA on 29.4.1998. Later the post of ISA was merged with Sr. ISA and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri Kishore Chandra Subudhi, (SI.No. 129 of integrated seniority list) was allowed higher GP of Rs.5400/- as discussed in para 2.1 of this order.

2.16 O.A.No.753 of 2015 :

In this OA, the Applicant (SI.No.184 in the integrated seniority list) was appointed initially as Clerk Grade-II on 05.05.1987. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 12.06.1991, AA on 17.06.1994, ISA on 17.02.2003 & to the post of Sr. ISA on 31.08.2009 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri R.K.Routray (SI.No. 190 of integrated seniority list) was recruited to the post of JAA on 30.06.1987. After passing Appendix II & III Examination he was promoted to AA on 31.07.1990, Sr. ISA on 26.12.2003. Then after completion

of 10 years continuous service in the said grade hw as allowed 3rd financial up gradation under MACP to GP of Rs. 5400/- w.e.f. 26.12.2013.

2.17 O.A.No. 754 of 2015 :

In this OA, the Applicant (SI.No.154 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 18.01.1989. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 12.06.1991, AA on 17.06.1994, SO on 09.09.1997 and to the post of Sr.SO on 07.03.2006. Later on the post of SO was merged with Sr. SO. Consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Sahoo (SI.No. 163 of integrated seniority list) was allowed higher GP of Rs.5400/- as discussed in para 2.10 of this order.

2.18 O.A.No.755 of 2015 :

In this OA, the Applicant (SI.No.155 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 23.12.1987. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 23.04.1993, AA on 23.04.1996, SO on 17.08.1995 and to the post of Sr. SO on 22.05.1998. Consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Sahoo (SI.No. 163 of integrated seniority list) was allowed higher GP of Rs.5400/- as discussed in para 2.10 of this order.

2.19 O.A.No.756 of 2015 :

In this OA, the Applicant (SI.No.119 in the integrated seniority list) was appointed initially as CG II on 30.05.1989. After passing the Appendix -II & III Examination, he was promoted to JAA on 12.06.1991, AA on 14.09.1994, ISA on 21.08.1995 and Sr. ISA on 29.04.1998. Later the post of ISA and Sr. ISA merged. Consequent upon recommendations of 6th CPC he was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.C.Subudhi (SI.No. 129 of integrated seniority list) was allowed higher GP of Rs.5400/- as discussed earlier in para 2.1 of this order.

2.20 O.A.No.757 of 2015 :

In this OA, the Applicant (SI.No.9 in the integrated seniority list) was appointed initially as CG II on 2.7.1977. After passing the Appendix -II & III Examination, he was promoted to JAA, AA and Sr. SO. Consequent upon recommendations of 6th CPC he was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.C.Subudhi (SI.No. 129 of integrated seniority list) was allowed higher GP of Rs.5400/- as discussed earlier in para 2.1 of this order.

2.21 O.A.No. 765 of 2015 :

In this OA, the Applicant (Sl.No.44 in the integrated seniority list) was appointed initially as Junior Typist on 25.01.1978. Then his category was changed to JAA on 7.12.1982. After passing the Appendix -II & III Examination, he was promoted to AA on 01.04.1987, SO on 20.02.1991 and to the post of Sr. SO on 19.03.2012. Consequent upon recommendations of 6th CPC he was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.C.Subudhi (Sl.No. 129 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed earlier in para 2.1 of this order.

2.22 O.A.No.766 of 2015 :

In this OA, the Applicant (Sl.No.20 in the integrated seniority list) was appointed initially as Clerk Grade-II/PAC on 28.02.1980. After passing the Appendix -II & III Examination, he was promoted to the post of JAA on 06.06.1985 and AA on 04.09.1987 and thereafter to the post of SO on 17.02.1989. He was then promoted to the post of SSO on 01.03.1993. Later, the post of SO/TIA/ISA was merged with SSO/STIA/SISA and consequent upon recommendations of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.C.Subudhi (Sl.No. 129 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed earlier in para 2.1 of this order.

2.23 O.A.No. 767 of 2015 :

In this OA, the Applicant (Sl.No.26 in the integrated seniority list) was appointed initially as Clerk Grade-II on 03.09.1977. After passing the Appendix -II & III Examination, She was promoted to the posts of JAA on 29.11.1980, AA on 01.12.1988, SO on 15.5.1989 & Sr. SO on 01.03.1993 in GP of Rs. 4800/-. On the other hand, Shri K.C.Subudhi (Sl.No. 129 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed earlier in para 2.1 of this order.

2.24 O.A.No.775 of 2015 :

In this OA, the Applicant (Sl.No.116 in the integrated seniority list) was appointed initially as Clerk Grade-II on 08.08.1986. After passing the Appendix -II & III Examination, he was promoted to Clerk Grade I i.e. JAA on 20.07.1990. Thereafter he was promoted to the post of AA on 20.7.1993. Subsequently the applicant was promoted to the post of TIA on 30.08.1994 and then to Sr.TIA on 22.06.1998. Later on the post of TIA was merged with S.r TIA and date of promotion to TIA was effected as one promotion. On the other

hand, Shri K.C.Subudhi (SI.No. 129 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed earlier in para 2.1 of this order.

2.25 O.A.No.776 of 2015 :

In this OA, the Applicant (SI.No.87 in the integrated seniority list) was appointed initially as Clerk Grade-II on 10.12.1987. He was promoted to the post of Clerk Grade I i.e. JAA on 20.07.1990. After passing the Appendix -II & III Examination, he was promoted to JAA on 21.04.1989, AA on 21.04.1992, SO on 22.3.1995 and Sr.SO on 03.07.2002 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri Madhusudan Nanda with whom the applicant is claiming parity (SI.No. 105 of integrated seniority list) was appointed as JAA and promoted to AA. He cleared Appendix II & III Examination in the year 1993 and 1994. On his own request he was transferred to Bilaspur and has been posted in the recruitment grade as JAA as per RULES. Then he availed his second promotion from JAA to SO on 07.12.1995. After considering 10 years continuous service in the same grade he was allowed 3rd financial up gradation under MACP to GP of Rs. 5400/-.

2.26 O.A.No.777 of 2015 :

In this OA, the Applicant (SI.No.86 in the integrated seniority list) was appointed initially as Clerk Grade-II on 07.08.1986. He was promoted to JAA on 21.04.1989 and thereafter to AA on 21.04.1992, SO on 28.04.1995 and Sr.SO in PB II with GP of Rs. 4800/- on 03.07.2002. On the other hand, Shri Madhusudan Nanda (SI.No. 105 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed in para 2.25 of this order.

2.27 O.A.No.778 of 2015 :

In this OA, the Applicant (SI.No.45 in the integrated seniority list) was appointed initially as Clerk Grade-II on 28.06.1977. After passing Appendix II and III examination he was promoted to JAA on 24.12.1979, AA on 01.07.1986, Sr.ISA on 22.09.1993 and then to the post of Sr.ISA on 23.09.1996 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Nayak (SI.No. 63 of integrated seniority list) was initially appointed as CG II on 27.03.1989 and promoted to the post of JAA on 16.02.1991. Then after passing the Appendix II & II Examination he was promoted to Sr. SO on 21.09.1994. After completion of 10 years continuous service in one grade he was allowed third financial up gradation under MACP to GP of Rs. 5400/-.

2.28 O.A.No.780 of 2015 :

In this OA, the Applicant (SI.No.17 in the integrated seniority list) was appointed initially as Clerk Grade-II on 07.01.1975. After passing Appendix II & III Examination, he was promoted to Clerk Grade I i.e. Junior Accounts Assistant on 30.11.1982. Thereafter he was promoted to the post of AA on 01.04.1987, SO on 19.12.1989 and then to the post of Sr.SO on 27.12.1993. Later the post of SO and Sr. SO was merged and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/- . On the other hand, Shri P.K.Nayak (SI.No. 63 of the seniority list) was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.27 of this order.

2.29 O.A.No.781 of 2015 :

In this OA, the Applicant (SI.No.101 in the integrated seniority list) was appointed initially as Clerk Grade-II on 24.05.1989. After passing Appendix II & III he was promoted to JAA on 27.09.1991, AA on 27.09.1994, SO on 01.12.1995 and then Sr. SO and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/- . On the other hand, Shri Madhusudan Nanda (SI.No. 105 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed in para 2.25 of this order.

2.30 O.A.No.782 of 2015 :

In this OA, the Applicant (SI.No.102 in the integrated seniority list) was appointed initially as Clerk Grade-II on 15.03.1989. After passing Appendix II & III Examination, he was promoted to the post of JAA on 15.03.1991, AA on 05.10.1994 and Sr. SO on 06.12.1995. Consequent upon recommendations of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/- . On the other hand, Shri Madhusudan Nanda (SI.No. 105 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed in para 2.25 of this order.

2.31 O.A.No.783 of 2015

In this OA, the Applicant (SI.No.99 in the integrated seniority list) was appointed initially as Clerk Grade-II on 15.03.1989. After passing Appendix II & III Examination, he was promoted to the post of JAA on 16.02.1991, AA on 16.02.1994 and SO on 07.12.2003 and consequent upon recommendations of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/- . On the other hand, Shri Madhusudan Nanda (SI.No. 105 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed in para 2.25 of this order.

2.32 O.A.No.784 of 2015 :

In this OA, the Applicant (SI.No.84 in the integrated seniority list) was appointed initially as Clerk Grade-II on 23.10.1982. After passing Appendix II

& III Examination, he was promoted to the post of JAA on 01.12.1988, AA on 01.12.1991, SO on 21.03.1995 and to Sr. SO on 04.09.2001 and consequent upon recommendations of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri Madhusudan Nanda (Sl.No. 105 of integrated seniority list) was allowed higher Grade Pay of Rs. 5400/- as discussed in para 2.25 of this order.

2.33 O.A.No.790 of 2015 :

In this OA, the Applicant (Sl.No.26 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 03.02.1982. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 01.12.1985, AA on 01.12.1988, SO on 10.08.1990 & Sr. SO on 31.03.1994. Consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Nayak (Sl.No. 63 of the seniority list) was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.27 of this order.

2.34 O.A.No.799 of 2015 :

In this OA, the Applicant (Sl.No.18 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 31.07.1979. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 04.12.1982, AA on 01.04.1987 and to the post of Sr. SO on 27.12.1993. Consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Nayak (Sl.No. 63 of the seniority list) was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.27 of this order.

2.35 O.A.No.800 of 2015 :

In this OA, the Applicant (Sl.No.41 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 19.08.1986. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA, AA and Sr. SO in PB II with GP of Rs. 4800/-. Consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Nayak (Sl.No. 63 of the seniority list) was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.27 of this order.

2.36 O.A.No.801 of 2015 :

In this OA, the Applicant (Sl.No.42 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 5.6.1987. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA, AA, SO(A) on 28.10.1986 and finally promoted to Sr.SO on

21.4.1993 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/- . On the other hand, Shri P.K.Nayak (Sl.No. 63 of the seniority list) was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.27 of this order.

2.37 O.A.No.820 of 2015 :

In this OA, the Applicant (Sl.No.147 in the integrated seniority list) was appointed initially as Accounts Clerk on 24.05.1989. After passing the Appendix -IIA Examination in 1991, he was promoted to the next higher post of Junior Accounts Assistant (in short JAA) on 12.11.1991 and then as Accounts Assistant (in short AA) on 25.10.1997. Thereafter, the Applicant after passing the Appendix-IIIA Examination in 1995 got promoted as Section Officer (Accounts) on 12.09.2000. With effect from 01.01.2006, post of Section Officer and Senior Section Officer (Accounts (i.e. Sr. SO Accounts) got merged with Section Officer (Accounts) with GP Rs. 4800/- in PB-2. On the other hand, Shri Baikuntha Nath Panda (Sl.No. 156 of integrated seniority list) was appointed as JAA on 03.06.1994. He passed Appendix-IIA Examination in 1995 and Appendix-IIA Examination in 1997. Then he was straightaway promoted to Section Officer (Accounts) on 08.08.2002, which got merged with the post of Senior Section Officer (Accounts) w.e.f. 01.01.2006. He was allowed MACP benefit w.e.f. 08.07.2012 increasing his GP to Rs. 5400/- in PB-2.

2.38 O.A.No.821 of 2015 :

In this OA, the Applicant (Sl.No.137 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 23.6.1987. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 15.6.1994, then to the post of AA and Sr.SO and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/- . The applicant is claiming parity with Shri B.N.Panda, (Sl.No.156 of integrated seniority list) who was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.37 of this order.

2.39 O.A.No.822 of 2015 :

In this OA, the Applicant (Sl.No.174 in the integrated seniority list) was appointed initially as Clerk Grade-II on 02.01.1995. Then he was promoted to the post of Clerk Grade I on 23.08.1996 (re-designated as JAA on passing the Appendix II examination. Further he was promoted to the post of Accounts Assistant on the basis of seniority cum suitability. Thereafter he was promoted to the post of SO after passing the Appendix IIIA Examination and then to the post of SSO on the basis of seniority (after completing minimum period of 3 years continuous service in the grade of SO) in PB II with GP of Rs. 4800/-.

On the other hand, Shri A.R.Mishra (SI.No.176 of integrated seniority list) was appointed as JAA on 13.4.1995. After clearing Appendix II and Appendix III Examination, he was promoted to the post of AA and thereafter to SSO on 30.03.2005. Accordingly, on completion of ten years of continuous service in the same grade, he was granted the third financial up gradation under MACP to GP Rs. 5400/-.

2.40 O.A.No.823 of 2015:

In this OA, the Applicant (SI.No.165 in the integrated seniority list) was appointed initially as Clerk Grade-II on 17.03.1989. Then after passing the Appendix II & III and consequent upon recommendations of 6th CPC the applicant was placed PB II with GP of Rs. 4800/-. On the other hand, Shri A.R.Mishra (SI.No.176 of integrated seniority list) was allowed higher GP of Rs. 5400/- as discussed in para 39 of this order.

2.41 O.A.No.870 of 2015 :

In this OA, the Applicant (SI.No.79 in the integrated seniority list) was appointed initially as Jr. Typist on 20.10.1987 and later promoted and posted as JAA on 11.04.1990. After passing the Appendix -II & III Examination, he was promoted to the post SO on 14.09.1994 and then to the post of Sr. SO on 29.01.1999. Consequent upon recommendations of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.C.Subudhi (SI.No. 163 of integrated seniority list) has been allowed the GP of Rs.5400/- as discussed in para 2.1 of this order.

2.42 O.A.No.881 of 2015 :

In this OA, the Applicant (SI.No.38 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 25.08.1986. After passing Appendix II and Appendix III Examination, he was promoted to the posts of JAA, AA and Sr. SO on 12.1.1993. Consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri P.K.Nayak (SI.No.63 of integrated seniority list) was allowed higher GP of Rs. 5400/- as discussed in para 2.27 of this order.

2.43 O.A.No.882 of 2015 :

In this OA, the Applicant (SI.No.148 in the integrated seniority list) was appointed initially as Clerk Grade-II on 30.11.1989. Thereafter he was promoted to the post of Clerk Grade I (JAA) by virtue of passing Departmental Examination. Then he was promoted to the post of Accountants Assistant on the basis of seniority cum suitability after passing appendix II A examination. Subsequently he was promoted to the post of Section Officer on the basis of

passing Appendix IIIA examination. Finally, he was promoted to the post of SSO. Later on the post of SO and SSO was merged and upgraded to SSO and consequent upon recommendations of 6th CPC the applicant was placed PB II with GP of Rs. 4800/. On the other hand, Shri B.N.Panda (Sl.No.156 of integrated seniority list) was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.37 of this order.

2.44 O.A.No.883 of 2015 :

In this OA, the Applicant (Sl.No.10 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 17.7.1977. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA, AA and Sr.SO and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/. On the other hand, Shri N.Swain, with whom the applicant is claiming parity (Sl.No.27 of integrated seniority list) was appointed as JAA on 23.3.1984. After clearing Appendix II and Appendix III Examination, he was promoted to the post of Sr. SO(A) on 13.5.1989 without availing the intermediary post AA. Accordingly, on completion of ten years of continuous service in the same grade, he was granted the third financial up gradation under MACP to GP Rs. 5400/-.

2.45 O.A.No.892 of 2015 :

In this OA, the Applicant (Sl.No.17 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 19.11.1977. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 30.11.1982, AA on 11.3.1987, Sr.TI(A) on 2.11.1988 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/. On the other hand, Shri N.Swain (Sl.No.27 of integrated seniority list) was allowed higher GP of Rs. 5400/- as discussed in para 2.44 of this order.

2.46 O.A.No.893 of 2015 :

In this OA, the Applicant (Sl.No.4 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 31.3.1976. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 24.12.1979, AA on 1.7.1986, SO(A) on 28.10.1986 and finally promoted to Sr.SO(A) on 13.3.1991 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/. On the other hand, Shri N.Swain (Sl.No.27 of integrated seniority list) was allowed higher GP of Rs. 5400/- as discussed earlier in para 2.44 of this order.

2.47 O.A.No.934 of 2015 :

In this OA, the Applicant (Sl.No.41 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 27.6.1977. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 30.11.1982, AA on 20.2.1987, Section Officer (SO) on 14.12.1989 and finally promoted to SSO. Later Section Officer post has been merged with Sr. Section Officer and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.K.Tripathy (Sl.No.65 of integrated seniority list) was appointed as JAA on 11.6.1987. After clearing Appendix II and Appendix III Examination, he was promoted from JAA to the post of AA on 11.6.1990 and second promotion from AA to SO(A) on 17.6.1992. After completion of ten years of continuous service in the same grade, he was granted the third financial up gradation under MACP to GP Rs. 5400/-.

2.48 O.A.No.935 of 2015 :

In this OA, the Applicant (Sl.No.40 in the integrated seniority list) was appointed initially as Clerk Grade-II (Accounts Clerk) on 19.11.1977. After passing Appendix II and Appendix III Examination, he was promoted to the post of JAA on 30.11.1982, AA on 11.3.1987 and finally promoted to Sr. TI(A) on 2.11.1988 and consequent upon recommendation of 6th CPC the applicant was placed in PB II with GP of Rs. 4800/-. On the other hand, Shri K.K.Tripathy (Sl.No.65 of integrated seniority list) was allowed higher GP of Rs. 5400/- as discussed in para 2.47 of this order.

2.49 OA No. 722 of 2015 :

This OA is taken as the leading OA for the purpose of this order as mentioned in para 2 of this order. In subsequent para graphs of this order reference to the OA will mean the leading OA (No. 722 of 2015).

3. The applicant by filing the OA No. 722/2015, has sought for the following reliefs under the section 19 of the Administrative Tribunals Act, 1985:-

- "(a) To quash the order of rejections under Ann. A/12 and A/19 passed by respondent No.3.
- (b) And to direct the respondents to grant Grade pay of Rs.5400/- under MACP Scheme w.e.f. 1.9.2008 at par with Sri S.K.Rout by extending benefit of orders passed in OA No. 1075/2010, 274/2012 and 376/2015 by the Hon'ble CAT, Madras Bench, Calcutta Bench and Chandigarh Bench.
- (c) And to direct the respondents to fix the pay of the in PB-2 with GP of Rs.5400/- w.e.f. 1.9.2008 and pay the arrears.

And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice.

And for which act of your kindness the applicant as in duty bound shall ever pray."

In other 48 OAs of this batch of OAs, the reliefs sought for are more or less similar to the reliefs sought for in the leading OA No. 722 of 2015..

4. The facts are not disputed. The applicant was initially appointed as Clerk Grade-II on 6.11.1987. He was first promoted to the post of Junior Accounts Assistant (in short JAA) with the GP of Rs. 2800/- and then to the post of Accounts Assistant (in short AA) with GP of Rs.4200/- and then promoted as Senior TIA (in short Sr.TIA) with the GP of Rs. 4800/- after passing requisite examinations. In the integrated seniority list of Senior TIA/ Senior SOs (in short Sr.SOs) etc. in which the applicant is at serial number 136 compared to the serial number of 138 for Sri SK Rout, who is junior to the applicant as per the integrated seniority list. It is stated in the OA that while Sri SK Rout has been allowed the GP of Rs. 5400/-, where as the applicant, being senior to Sri SK Rout was not allowed the benefit of higher GP and continued at the GP of Rs. 4800/-. Being aggrieved, the applicant with other similarly employees moved the authorities vide the joint representation dated 3.12.2013 (Annexure-A/3) for allowing the benefit of the GP of Rs. 5400/- at par with their juniors. The representations were also forwarded to the Railway Board, which rejected the same vide the order dated August, 2014 (Annexure-A/12), for all such employees who had submitted the representations.

5. It is mentioned in the OA that on the same issue of senior employee getting less GP than juniors in the Accounts department, some of the employees who were similarly placed as the applicant, had approached Madras Bench of the Tribunal with their grievance in OA No. 1075/2010. The Tribunal, after hearing the parties, allowed the OA No. 1075/2010 vide order dated 5.8.2011 (Annexure-A/5), directing the respondents to allow the benefit of the GP of Rs. 5400/- from the date from which juniors of the applicants in OA No. 1075/2010 had been allowed the benefit of the GP of Rs. 5400/-. The respondents challenged the order dated 5.8.2011 before Hon'ble Madras high Court, but it was upheld vide the order dated 3.4.2014 (Annexure-A/6). Another group of employees moved Calcutta Bench in OA No. 274/2012 for similar dispute and this OA was also allowed vide order dated 13.9.2012 (Annexure-A/7). This order was challenged before Hon'ble Calcutta High Court in W.P.C.T. No. 62/2013, which was disposed of with a direction to the writ petitioners (respondents in OA) to implement the order of the Tribunal passed

in OA No. 274/2012. The respondents passed the order dated 31.7.2015 (Annexure-A/8) to implement the order provisionally subject to final outcome of the matter. When the respondents did not take any decision on the representation of the applicant dated 3.12.2013, he moved the Tribunal in OA No. 314/2014 which was disposed of with a direction to the respondents to dispose of the applicant's representation for allowing the GP of Rs. 5400/- to be submitted to the respondents, keeping in mind the order of the Tribunal in Madras Bench and Calcutta Bench in similar OAs. Accordingly, the applicant submitted his representation dated 15.5.2014 (Annexure-A/11), on the ground that his juniors were allowed the GP of Rs. 5400/- and also citing the judgment of Madras Bench and Calcutta Bench of the Tribunal in similar cases.

6. The respondents have disposed of the applicant's representation dated 15.5.2014 by rejecting it vide order dated August, 2014 (Annexure-A/12). The Railway Board, vide order issued at Annexure-A/19 of the OA has also rejected the claim of the similarly placed employees as the applicant, on the ground that the orders of the Tribunal in Madras and other Benches allowing the benefit of the GP of Rs. 5400/- as per-incuriam on the ground that para 9 and 20 of the guidelines of MACPS which were not considered in those orders of the Tribunal. The applicant has filed this OA impugning the orders at Annexure A/12 and A/19. The date of the order at Annexure-A/19 is mentioned to be 10.11.2012, but the contents of the letter referred to letters issued in 2015. Hence, the order at Annexure-A/19 was issued in the year 2015.

7. The respondents have filed Counter opposing the OA mainly on the ground that the MACP guidelines specifically provide that the financial upgradation benefit under the scheme is personal and no stepping up of pay is allowed by comparing with the pay of the junior after getting the MACP benefit. It is also stated in the counter that the OA is barred by limitation as the applicant did not raise the issue after Sri S.K.Rout was allowed the benefit under MACP, raising his GP to Rs.5400/-. It is also stated in the counter that that due to different mode of initial recruitment, there is difference in promotional facility. A senior staff, after availing three or more promotions, is not entitled for MACP benefit as per the guidelines in force, where as a junior employee availing less than three promotions will be entitled for MACP benefit, for which, parity or stepping up of pay cannot be claimed by the senior employee as per the guidelines of MACP. It is stated in the counter that the applicant being senior to Sri SK Rout, is not entitled for the MACP benefit as he had already availed three promotions, i.e. from Clerk Grade-II to JAA, from JAA to AA and then from AA to Sr. TIA with the GP of Rs. 4800/-. It is further stated that Sri SK Rout was initially appointed as JAA directly and then he was

promoted to AA and then to Sr. SO with the GP of Rs. 4800/-. Having availed two promotions, he was entitled for the MACP benefit and accordingly he was allowed the MACP benefit raising his pay to Rs. 5400/- in PB-2. It is averred that as per para 9 and 20 of the MACP guidelines of the Railway Board, no stepping up of pay is permissible comparing with the GP of Rs. 5400/- of Sri SK Rout as per the MACP guidelines.

8. We have heard learned counsel for the applicant, who stressed on the point that in a number of cases before different coordinate Benched of the Tribunal, similarly placed employees as the present applicant, have been allowed the benefit of the GP of Rs. 5400/- at par with their juniors. These orders/judgments have been challenged before Hon'ble High Court and Hon'ble Apex Court and these orders have attained finality. The respondents have also implemented these orders/judgments allowing the GP of Rs.5400/- in compliance of the judgments. He submitted that the orders of the Tribunal on which he is relying, have been enclosed with the OA or the Rejoinder filed by the applicant. These cases cited in the applicant's pleadings and filed by applicant's counsel at the time of hearing are as under:-

- (i) Indrapal yadav –vs- UOI & Others [1985 (2) SCC 648]
- (ii) K.C.Sharma – vs- UOI & Others [1997 (6) SCC 721]
- (iii) State of Karnataka –vs- C.Lalita [2006(2) SCC 747]
- (iv) Krishna Bhatt –vs- State of J&K
- (v) State of UP & Others –vs- Arvind Kumar Srivastava & Others [2015 (1) SCC (L&S) 191].
- (vi) Mahinder Singh Gil & Another –vs- The Chief Election Commissioner, New Delhi [AIR 1978 SCC 851]
- (vii) Sub Inspector Roopal –vs- Lt. Governor [(2000) 1 SCC 644]

9. Learned counsels for the respondents in this OA as well as other OAs were also heard by us. Reiterating the contentions of the respondents in the Counter, learned counsels stressed on the point that since the para 9 and 20 of the MACP guidelines of the Railway Board are in force and these guidelines are treated as equivalent to the statutory rules, the orders/judgments cited by the applicant are not in accordance with these guidelines and hence, these judgments cannot be cited as precedence for which, these orders are to be treated as per incuriam as stated in the Counter as well as the order at Annexure-A/19. Hence, the applicant will not be entitled any relief based on these judgments.

10. Another line of argument of the respondents' counsel was that the difference in Grade Pay of Sri SK Rout compared to the applicant was due to

the fact that Sri Rout was first appointed as JAA, whereas the applicant was appointed as Clerk Grade-II, which is the lower post than the post of JAA. It was argued that the pay of the applicant and Sri SK Rout cannot be compared since they have been appointed through different channels and belonged to two different seniority lists. It was further argued that as mentioned in para 14 of the Counter, the seniority of the applicant and Sri SK Rout have been maintained separately as they were recruited through different channels and do not belong to one cadre, although the integrated gradation list has been prepared showing both of them in one seniority list only for the purpose of subsequent promotion to Group-B posts. Hence, he argued that comparison of the applicant with Sri SK Rout is misconceived and invalid.

11. It was also pointed out by learned counsel for the respondents that the para 9 and 20 of the MACP guidelines were challenged in some of the OAs cited by the applicant, but in none of the OA, these provisions of the MACP guidelines were not interfered by the Tribunal or by Hon'ble High Court. He also pointed out to the Full Bench judgment of Ernakulam Bench of the Tribunal (copy annexed at Annexure-R/2 of the Counter) in which the guidelines of the MACP were upheld and this judgment is binding on the coordinate Benches of the Tribunal. It was therefore, submitted that as per the guidelines of the MACP, the GP allowed to an employee under MACP is personal to him and a senior cannot get the benefit of stepping up based on the junior's pay.

12. Lastly, it was argued by the respondents' counsel that apart from the guidelines of the MACP, the fundamental rules and DOPT guidelines do not allow stepping up of pay of the applicant by comparing with the pay of Sri SK Rout. It was pointed out that the applicant in many of the OAs are getting higher total pay than his junior, who was getting higher GP of Rs.5400/-. Learned counsel for the respondents has cited a number of judgments (as discussed subsequently in this order).

13. We have considered the submissions by learned counsels for the parties and also perused the material placed before us. The objection was raised by respondents' counsel for additional affidavit filed by applicant's counsel. Later on, additional counter was filed in reply to additional documents filed by the applicant in rejoinder and additional affidavit filed by applicant's counsel. Before proceeding further, the issue of limitation raised in the counter is to be considered. Respondents have not indicated date on which Sri S.K.Rout was allowed the GP of Rs.5400/-. The cause of action for applicants arose after Madras Bench of the Tribunal disposed of the OA No. 1075/2010 and this order was upheld in Hon'ble Madras High Court vide order dated 3.4.2014

(Annexure A/6). Joint representation had been filed by applicants on 3.12.2013 (Annexure A/3) and then he filed OA No. 314/2014, when no action is taken by the respondents. OA No. 314/2014 was disposed of directing the respondents to dispose of the representation. Accordingly, the impugned orders at Annexure A/12 and A/19 were passed by the Railway Board, rejecting the case of the applicant and similar cases. Hence, the OA is not barred by limitation.

14. The following issues are to be decided in this OA:-

- (i) Whether the judgments relied upon by the applicant are to be considered as per-incuriam as averred by the respondents in the Counter
- (ii) Whether the applicant is entitled to the benefit of stepping up of his GP to Rs. 5400/- on the ground that his junior, Sri SK Rout was allowed the benefit of the GP of Rs. 5400/- in the light of the orders/judgments of the Tribunal / Hon'ble High Courts in case of the employees who were similarly placed as the applicant.

15. It is a fact that in none of the judgments cited in this OA, the guidelines on MACP Scheme have been interfered. These guidelines specifically provide that the MACP benefit is allowed on personal basis and no claim for stepping up of pay on the basis of the benefit allowed under MACP is permissible. To understand the reason why the stepping up claim was allowed by the Tribunal in such cases, we refer to the following observations of the Tribunal in the order dated 5.8.2011 passed in the OA No. 1075 of 2010 by Madras Bench of the Tribunal, following the Tribunal's order in OA No. 966 and 967 of 2009 on a similar issue :-

"5. We have heard the learned counsel on both sides and perused the pleadings and the materials placed on record.

6. This Tribunal had an occasion to consider the similar issue in OA No. 966 and 967 of 2009. The applicants in that applications are all Assistant Accounts Officers in Accountant General Office had challenged the MACP Scheme in so far as it denied the Grade Pay of Rs.5400/- to them, whereas the private respondents in that OAs who are Sr. Accountants functioning under the control of the applicants have been given the Grade Pay of Rs.5400/-. After hearing learned counsel on sides, the Tribunal has observed as follows :

6. From the records, it is seen that the applicants who were initially appointed as clerks and having been qualified in the departmental examinations at various stages have been promoted to the post of Accountants and Section Officers. Subsequently, the applicants were promoted as Sr. Accountants and Assistant Accounts Officers based on the seniority and all the applicants are holding the post of AAOs. The above facts are admitted by the official respondents in their reply. In the reply it is also admitted that the private respondents have not acquired the qualifying examination for promotion as Section Officers and accordingly they were stagnated at the level of Sr. Accountants. When the facts are like this, it appears that on introduction of MACP Scheme while implementing the recommendation of the VI Pay Commissions

recommendations, three financial upgradations were extended to the private respondents. According to the respondents, they are rightly granted the third financial upgradation and the grade pay of Rs.5400/- was given to them based on the eligibility criteria of the above scheme. We are not in agreement that the above reasoning as contended by the official respondents as well as by the private respondents. When the fact remains that the applicants having qualified in the departmental examinations and able to gain further promotions as per the Recruitment Rules and also exercising supervisory role as against the private respondents, we are at loss to note as to how they could be given lesser pay, whereas, the private respondents were given higher pay. We do not find fault with the official respondents by devising the scheme to extend the benefits of such of those employees who are stagnating in service for number of years but that does not mean that in the guise of implementation of the said scheme, persons like the applicants who acquired the necessary qualifications viz., completion of the departmental examinations and gained regular promotions as per Recruitment Rules could be given lesser scale of pay. The private respondents who are holding the position of Sr. Accountants functioning under the control of the applicants cannot be fixed in a grade pay higher than the applicants. In fact, F.R.22 provides for the removal of anomalies by stepping up the pay of seniors when their juniors happened to draw more pay. In the instant case, the private respondents who are functioning inferior than the applicants and who are not even qualified to be promoted to the post held by the applicants are given higher pay scale in the guise of implementation of the scheme which is unsustainable in law.

7. Even though the Apex Court in its decision rendered in [Secretary, Finance Department and others v. West Bengal Registration Service Association and others](#), 1993 SUPP (1) SCC 153 held to the effect that determination of pay scales is the primary function of the executives and not the judiciary, in the very same decision, the Supreme Court has emphasized that the Courts have jurisdiction to grant relief to the aggrieved employees when they are unjustly treated and when the state action is arbitrary. In the instant case, we are of the opinion that the applicants are unjustly treated in as much as higher pay scale is given to the private respondents who are functioning inferior than the applicants and who have not even qualified themselves to be promoted to the posts which are held by the applicants.

8. Even though, we are of the opinion that in the guise of implementation of the scheme, the private respondents are given the higher pay scales than the applicants and one of the relief claimed in the applications is to quash the office memorandum wherein such benefit is extended to the private respondents, in the interest of justice, we do not propose to take away such benefits which are being extended to the private respondents. However, we are inclined to give relief to the applicants by directing the respondents to extend the benefit of the MACP scheme in favour of the applicants by fixing their grade pay at Rs.5400/- w.e.f. the date on which such benefit was extended to the private respondents.

9. For the reasons stated above, both the applications are disposed of in the following terms:

'There will be a direction to the respondents to grant the revised pay to the applicants by extending the benefit of MACP Scheme in favour of the applicants by fixing their grade pay at Rs.5400/- from the date on which the said benefit was extended to the private respondents and to disburse the accrued arrears, if any, to the applicants within a period of four weeks from the date of receipt of copy of this order. However, there will be no order as to costs.'

On perusal of the above order, we are of the view that the applicants herein are also similarly placed like that of the applicants in the OAs cited above."

16. The order dated 5.8.2011 of Madras Bench of the Tribunal was challenged by the respondents in Hon'ble Madras High Court in Writ petition No. 1078, 10046 to 10049 and 18262 of 2012, in which the order dated 5.8.2011 of the Tribunal was upheld vide order dated 3.4.2014 (Annexure A/6) of Hon'ble High Court. The following observations/findings of Hon'ble Madras High Court are extracted from order dated 3.4.2014 :-

"4. Mr.V.Radhakrishnan, learned Senior Counsel appearing for the petitioners/official respondents, has drawn the attention of this Court to the Office Note dated 11.11.2013, written by the Department of Personnel and Training, Establishment (D), Government of India, wherein, the anomaly faced by the incumbents of the Accounts Department of Ministry of Railways, consequent to implementation of the MACP Scheme, was considered and it was opined that the instant anomaly brought forward by the referring Department (Ministry of Railways) cannot be attributed to the ACP/MACP policy, but due to faulty cadre structure and therefore, the referring Department may be advised to restructure the Accounts cadre to rectify the anomaly, and would contend that appropriate steps will be taken in that regard.

5. The fact remains that consequent to the implementation of the MACP Scheme, senior employees, who got promotion, are deprived of third MACP, whereas their juniors are availing the benefit of the same by getting Grade Pay of Rs.5400/-, but their seniors are getting Grade Pay of Rs.4800/- only. The Tribunal in the impugned orders passed in the Original Applications, has referred to its earlier orders passed in O.A.Nos.966 and 967 of 2009, and following the same, has allowed the Original Applications."

17. From the orders extracted above, it is noticed that as per the views of the DOPT as submitted by respondents' counsel before Hon'ble Madras High Court in the case extracted in para 12 above, the anomaly appearing in this cadre is on account of "faulty cadre structure" and it is not due to MACP Scheme. This implies that there are deficiencies in the cadre structure of the Accounts staff of the Railways, for which the juniors are drawing higher pay than the seniors at some stage. When the order of Madras Bench was upheld by Hon'ble Madras High Court and then by Hon'ble Supreme Court without any interference with the MACP guidelines, it should have been clear that the anomalies in the pay structure of this particular cadre will keep on arising unless some policy decision is taken to restructure the cadre as recommended by the DOPT. But the respondents have chosen not to act as per the suggestion of the DOPT to restructure the Accounts cadre in order to remove the anomalies.

18. It is also noticed that as stated in para 6 of the Rejoinder, the seventh Pay Commission had taken note of the anomalies in the Accounts cadre and has made certain specific recommendations in this regard as under:-

"That, the 7th Pay Commission in its report after examining the matter in extensor regarding the discrimination in pay of junior and seniors in its report has recommended as under:

'11.40.79 The employees of Accounts Department maintain the books of accounts and render financial advice. The cadre structure is as follows:

Designation	Grade Pay
Sr. Section Officer/Sr. Travelling Inspector of Accounts/ Sr. Inspectors of Stores Accounts	4800
Accounts Assistant (AA)	4200
Jr. Accounts Assistant (JAA)	2800
Accounts Clerk (AC)	1900

11.40.80 Direct entry to the cadre is at the levels of Accounts Clerk (AC) and Junior Accounts Assistant (JAA). The stipulated minimum qualification for direct recruitment at AC level is Class X along with typing speed of at least 30 words per minute, while that for the level of JAA is Graduation. Accounts Clerks are also promoted to JAAs after qualifying an examination (referred to in the Railways as Appendix IIA" examination). This examination is held at the level of the Railway Zones. The residency period for JAAs is three years after which they are promoted to Accounts Assistants (AAs). To move upwards to the next level (which consists of Senior Section Officer/Senior Travelling Inspector of Accounts/Inspector of Stores Accounts), AAs have to qualify an All India level examination (called "Appendix IIIA") for which ACs, JAAs as well as AAs are all eligible. This exam is centrally conducted by the Ministry of Railways and is rather stringent.

11.40.81 Representations received from this cadre bring out a peculiar problem: Subsequent to the acceptance of the VI CPC recommendations, there are several cases of a junior drawing higher GP than the senior. An example has been proffered to highlight the situation. Senior S joined service as AC in 1981, while Junior J joined service at the same level of AC in 1986. Both cleared the Appendix IIA examination after four years in service and were promoted to JAA in 1985 and 1990 respectively. After putting in one more year of service, i.e., in 1986 and 1991 respectively, both cleared the Appendix IIIA examination and were waiting for their postings as SSO. However there was no vacancy of SSO from 1986 to 1990 and S got promoted to AA in 1989 (i.e., after completion of residency period of three years). Later, when vacancies of SSO arose in 1992, both S and J were promoted as SSO. Ten years down the line, both were considered for an upgrade under MACP. However, since S had already availed of three promotions, he was ineligible for upgradation under the MACP scheme and remained in GP 4800, but since J had received only two promotions, he was upgraded to GP 5400 (PB-2) through MACP. This has resulted in a situation wherein junior is placed in a higher GP than the senior purely on circumstantial grounds. It is reported that there are about 250 such cases.

Analysis and Recommendations

11.40.82 The Commission finds merit in the contention that the above has led to an anomalous situation. It is therefore recommended that in cases where a senior employee has cleared both Appendix IIA and Appendix IIIA examinations before the junior, and purely through circumstances the junior is drawing higher GP, the anomaly should be fixed by stepping up the pay of the senior employee vis-à-vis the junior, and then fixing the senior employee in the Pay Matrix.

11.40.83 In line with our recommendations for organised Accounts cadres, it is further recommended that employees in GP 4800 should be upgraded, on completion of four years' service, to the existing GP 5400 (PB-2), viz., Level 9 in the pay matrix, on a non-functional basis."

It is seen from above that the anomalies in the Accounts cadre as presented before us in these OAs have been considered by the Seventh Pay Commission. We are not aware of any decision taken by the respondents in respect of this specific recommendation to remove the anomalous situations in the Accounts cadre of the Railways like the senior getting less pay after implementing the MACP scheme.

19. After Madras Bench order, different coordinate Benches of this Tribunal followed the order of Madras Bench and passed similar orders to address the grievances of senior employees of the cadre who were getting less GP than some of their juniors. Learned counsel for the applicant has cited a number of cases in which similarly situated employees as the applicant before us, have been allowed the relief of stepping up of Grade Pay at par with their juniors. In the case of T. Danappa & other vs. Union of India & Others in OA no. 170/00049-00080 of 2016, Bangalore Bench of this Tribunal allowed the OAs in similar circumstances. Against the order of the Tribunal, the respondents filed Writ Petitions before Hon'ble High Court of Karnataka in the case of Union of India & other vs. T. Danappa & others. In the judgment dated 20.8.2018 (Annexure-A/26 to the Rejoinder), it was held by Hon'ble Karnataka High Court as under:-

"In the year 1985, the respondents entered services with the South Western Railway as Accounts Clerks. In the year 1993, they were promoted as Junior Accounts Assistants (JAAs). Meanwhile, the respondents had passed the prescribed Appendix IIA and IIIA (IREM) examinations. In 1996, the respondents were further promoted as Accounts Assistants (AAs) and later as Senior Section Officers (Sr. SOs) in the same year.

Further, certain employees with the South Western Railway, who were also appointed as Accounts Clerk in the year 1987 (and thus were juniors to the respondents), were promoted as Junior Accounts Assistants (JAAs) in the year 1995 after they had also successfully cleared aforementioned Appendix-IIA and IIIA (IREM) examinations. In the year 1999, these employees, who were juniors to the respondents, were directly promoted as Senior Section Officers (Sr. SOs). Interestingly, these employees, who were juniors to the respondents, were directly promoted as Senior Section Officers (Sr. SOs), without intermediary promotion as Accounts Assistants (AAs). This is a material difference in so far as the present controversy is concerned.

The South Western Railway accepted the Modified Assured Career Progression (MACP) Scheme recommended by the VI Central Pay Commission with effect from 1.9.2008 with certain modifications. The benefit of the MACP Scheme was not extended to the respondents on the ground that the respondents, who were working as Accounts Clerks had received three promotions viz., firstly as (JAAs), secondly as Accounts Assistants (AAs), and thirdly as Senior Section Officers (Sr.SOs) between 1993 and 1996. The respondents filed their representations before the competent authorities. When such representations did not yield any result, the respondents filed the aforesaid Original Applications before the Learned Tribunal primarily on the ground that the denial of the benefit under such MACP Scheme to them was anomalous in as much as their juniors, who were appointed in the year 1987, and who were promoted as Senior Section Officers in the year 1999, (as against the respondents who first entered the service in the year 1985 and were promoted as Senior Section Offices in the year 1996), were given the benefit of MACP Scheme. Consequentially, the junior officers were drawing salary higher than the respondents. In continuation of this contention, it was also urged that the Railway Board was cognizant of this anomaly and by its Communication dated 26.8.2013; it recommended examining the admissibility of stepping up of pay to the

respondents at par with their juniors who were extended the benefits of the MACP Scheme.

.....

Further, it is also undisputed that the Railway Board considered the anomaly of the seniors receiving a lower pay than the juniors despite being similarly situated in every aspect including the successful clearance of Appendix-IIA and IIIA (IREM) examinations except in so far as the respondents having received an intermediary promotion as Accounts Assistants. And, that the Board and VII Central pay Commission also recommended the consideration of admissibility of stepping up of pay of the senior employees vis-a-vis juniors and fixing the senior employees in the appropriate pay matrix wherever seniors have cleared both Appendix IIA and IIIA (IREM) examinations before such juniors.

If these essential facts remain undisputed, there would be no justifiable reason to deny to the respondents the benefits of the decision/directions in the earlier proceedings in OA Nos. 170-00866-00873/2015 that have attained finality with the Madras High Court confirming the decision of the learned Tribunal and the dismissal of the SLP preferred by the Union of India/South Western Railway against such orders by the Hon'ble Supreme Court. This would be especially so because it is also undisputed that the earlier order by the Learned Tribunal in so far as the similar applications have been implemented.

The contention that the respondents would not be entitled for the benefit of step up in the pay vis-a-vis their juniors and fixation of the seniors in higher pay matrix because they have not challenged the terms of MACP Scheme that impede grant of benefit thereunder is too tenuous in the face of the subsequent recommendations by the Railway Board as well as the VII Central Pay Commission and the implementation of the directions issued by the Learned Tribunal in the case of the applicants who were, undisputedly, similarly placed as the respondents. In fact, these undisputed facts and circumstances of the case lend credence to the respondents' claim for being given the benefits in pari materia with other similarly placed employees as recommended by the VII Central Pay Commission."

20. Like the case of T. Danappa & others (supra) before Bangalore Bench, all the orders of different coordinate Benches of the Tribunal in which the relief was allowed following the order of Madras Bench, were unsuccessfully challenged by the respondents before respective High Courts. In some of these cases, SLP filed against the order has been dismissed and the order has been implemented by the respondents as stated in the pleadings of the applicant and also pointed out by the applicant's counsel at the time of hearing. As pointed out by the applicant's counsel, the respondents have implemented these orders for the employees who were parties to those cases while refusing to extend similar benefit to other similarly placed employees. The ground was that Madras Bench order was followed and it was not considered as per incuriam. Still the respondents have taken the same ground in this case that these orders/judgments should be treated as per-incuriam, when in the case after case, the Tribunal was following the order passed by Hon'ble High Courts

as well as the coordinate Benches of the Tribunal while allowing similar reliefs to the similarly placed employees as the applicant. These orders of different coordinate Benches of the Tribunal were upheld before the higher forum and have attained finality. Further, as observed in the judgments of Hon'ble Madras High Court and Hon'ble Karnataka High Court, the anomaly in these cases is identified to be due to the faulty cadre structure of the Accounts cadre of the Railways and it is not due to implementation of the MACP Scheme. Hence, the argument of the respondents that these orders/judgments should be treated as per-incurred in view of the para 9 and 20 of the guidelines of the Railway Board on MACP is not convincing. It is noticed that inspite of these judgments, the respondents have not taken any corrective policy action to remove the deficiencies in the cadre structure in spite of the orders of different Benched of the Tribunal and the anomalies like the junior getting higher Grade Pay are continuing instead of taking appropriate corrective steps.

21. In view of the discussions above, we are unable to agree with the respondents' averments that the orders and judgments cited by the applicant should be treated as per-incurred and the issue No. (i) of paragraph 14 of this order is decided accordingly.

22. Regarding the applicant's claim of pay parity vis-à-vis Sri SK Rout, learned counsel for the respondents has argued that the applicant and Sri Rout belong to different seniority lines and the integrated gradation list was prepared for the purpose of promotion to Group-B services only. It is not the case of the respondents that Sri Rout was not junior to the applicant in the integrated gradation list. Even if such seniority list is prepared for promotion to Group B, the fact is that the applicant has been considered to be senior to Sri Rout in this integrated list prepared for Group B promotion and they are considered to be belonging to the same cadre of Sr.SO/Sr.TIA. No document has been produced by the respondents to show that the applicant and Sri SK Rout as Sr.TIA and Sr.SO belong to two different seniority lines. The respondents' counsel in his additional counter has furnished two seniority lists for the applicant as Accounts Clerk cadre and Sri S.K.Rout belonging to the cadre of JAA. But as Sr. TIA/SR.SO, both are same seniority list. It is noted that the applicant was promoted to the post of JAA before Sri Rout was appointed initially as JAA. The applicant was also promoted to the post of AA and Sr. TIA with GP of Rs. 4800/- prior to the elevation of Sri Rout as Sr. SO with the GP of Rs. 4800/-. Hence, we are of the view that the applicant has been able to show that although he is senior to Sri SK Rout, he is drawing the GP of Rs. 4800/- after Sri SK Rout was allowed the MACP benefit raising his GP to Rs. 5400/- and that both of them belong to one integrated seniority list as Sr.TIA/Sr.SO.

23. In the Full Bench judgment of Ernakulam Bench of the Tribunal dated 22.3.2013 (Annexure-R/1) in the case of J. Leelamma and others vs. Union of India and others in OA no. 1103/2011 cited by the respondents' counsel, it was held as under:-

"24. As to the moulding of the relief, it is to be stated that the applicants has nowhere in the pleadings raised the issue of stepping up of pay. All through it is only as to the financial upgradation that they have been referring to. When such a financial upgradation is impermissible in view of clause 20 of the Scheme, they have chosen to challenge the legal validity too. Stepping up of pay is entirely in a different pedestal and though the decisions relied upon by the applicant's counsel at the time of arguments and certain Government of India decisions could go in favour of such stepping up of pay, law requires that the administrative remedies are first exhausted and it is only when through administrative means the grievance is not redressed, can the jurisdiction of the Tribunal be invoked. Again, normally consideration is given by the Courts for such moulding of relief if taking into subsequent events such moulding of relief is justified. For example, in this case such a moulding of relief could be justified if all the applicants have superannuated by now. That is not the case. There is ample time to seek administrative remedies.

25. In view of the above, while declaring that Clause 20 of the MACP scheme is fully valid and legal and while rejecting the claim of the applicants for financial upgradation under the MACP Scheme at par with the juniors, liberty is given to the applicants to have their grievances redressed by way of stepping up of pay, through administrative machinery. Neither the provisions of clause 20 of the Scheme nor does this order come in their way in this regard."

It is seen from the above judgment dated 22.3.2013 that stepping up of pay by comparing with juniors can be considered without challenging the guidelines of the MACP, which were held to be in order. In the present OA before us, the applicant has not challenged the provisions of the MACP Scheme and is seeking stepping up of the pay at par with their juniors, which was permissible as stated in the order dated 22.3.2013 of the Tribunal and similar relief has been allowed by different co-ordinate Benches of Tribunal to the employees similarly situated as the applicant. There is nothing in the order dated 22.3.2013 to prohibit the relief sought in the OA by the applicant.

24. In the judgment of the Tribunal dated 31.10.2014 in the case of Augustina Roy Rozario & others vs. Union of India & others in OA No. 951/11 along with other linked OAs cited by the respondents' counsel, the para 9 of the MACP guidelines was challenged and benefit under MACP Scheme at par with the juniors was sought by the applicants. In that case, the applicants were entitled for 3rd MACP benefit after completion of 30 years of service as stated by the respondents in that case, while resisting the claim for the benefit at par with the juniors. It was noted that the para 9 of the MACP guidelines have not been set aside or quashed on ground of being illegal in any of the previous court orders including the Full Bench judgment dated 22.3.2013 of Ernakulam Bench of this Tribunal. Hence, the OAs were dismissed. In these OAs, the claim was for 3rd MACP benefit at par with the juniors. In the present OA before us,

the claim is for stepping up of the GP at par with the juniors. Hence, the cited case is distinguishable.

25. The other case cited by the respondents in the Counter is the order of the Chandigarh Bench of the Tribunal dated 20.5.2016 in the case of Sh. Jagdish Chander Arora & others vs. Union of India & others relating to a dispute raised by the employees of the Department of Posts, similar claim for parity in Grade Pay was rejected by the Tribunal following the order dated 26.11.2015 of the Principal Bench of the Tribunal in OA No. 436/2015. Learned counsel for the respondents has also filed a copy of the order dated 26.11.2015 of the Principal Bench of the Tribunal in OA No. 436/2015 at the time of hearing.

26. In the OA No. 436/2015 before the Principal Bench, the dispute was due to the fact that the applicants in that OA under the Comptroller and Auditor General, who were getting less Grade Pay than their juniors. Although it did not relate to the railway servants as in the present OA, but in view of the fact that the orders of the Tribunal cited by the respondents in the Counter rely upon this order of the Principal Bench, we proceed to examine the applicability of this order to the present OA. In the OA No. 436/2015, it was held by the Principal Bench of the Tribunal as under:-

"2. Senior Auditors/ Senior Accountants are promoted as Section Officer (SO) only on passing of an examination, namely Section Officer Grade Examination (SOGE). All the applicants have passed this examination and have been promoted as Assistant Accounts Officers (AAOs) in the Grade Pay of Rs.4800/- . The alleged paradox is that those Auditors/ Clerks, who could not pass the SOGE, got the benefit of third upgradation under Modified Assured Career Progression Scheme (MACPS) in the Grade Pay of Rs.5400/- . Therefore, they started getting higher Grade Pay than the applicants though the applicants are their superiors now and also are obviously more meritorious because they cleared the SOGE. The Pay Band for both is the same namely PB-2 i.e. Rs.9300-34800. So effectively superiors are drawing lesser grade pay than their subordinates.

.....

4. The applicants mainly rely on the principle of precedents and for that matter, have cited the following orders/ judgments in their favour:

(i) Order dated 29.12.2010 in OA Nos.966 and 967 of 2009 of the Madras Bench of the Central Administrative Tribunal in the matter of **S. Prabhu-II and others Vs. Union of India and others**. The issue before the Madras Bench was exactly the same and the Tribunal allowed the OA and directed the respondents to grant the revised pay to the applicants by extending the benefit of MACP Scheme in favour of the applicants by fixing their grade pay at Rs.5400/- from the date on which the said benefit was extended to the private respondents and to disburse the accrued arrears, if any, to the applicants within a period of four weeks....."

.....

15. The other fact that should be noted is that MACP is an antistagnation measure. If a government servant does not get regular promotions to higher posts, then in order to ensure that at least his pay scale (now grade pay) goes up, he is given upgradation in pay scale (now grade pay) without change in his designation and duties. Again in such a situation, it may happen that a junior draws higher pay as a result of this but in no way, it would change the authority of the superior. Moreover, MACP is an 'upgradation' not a 'promotion' as argued by the learned counsel for the respondents. Also, the respondents have clarified that the total pay of the applicants is not less

than the pay of their subordinates. It is only the Grade Pay which is different as a result of the MACP Scheme. It is for this reason that para 20 of the MACP Scheme, cited above, specifically provides for such a situation as follows:

"20. Financial upgradation under the MACPS shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employees on the ground that the junior employee in the grade has got higher pay/ grade pay under the MACPS."

16. Therefore, we are of the considered opinion that the claim of the applicants is completely misplaced relying on application of wrong principles which would, in fact, result in double benefit because they would get the benefit of promotion as well as upgradation, which was never the spirit of the MACP Scheme. We, therefore, find no merit in this OA and dismiss the same."

26. It is clear from the preceding paragraph that the facts of the OA No. 436/2015 were different, since in that case, the applicants were senior in the hierarchy of the cadre after getting promotion to the post with GP of Rs.4800/-, where as their juniors, who could not be promoted since they did not qualify in the prescribed examination, were subsequently allowed higher grade pay of Rs. 5400/- through MACPS compared to the GP of Rs. 4800/- for the seniors. In the present OAs before us, both the applicants were getting less grade pay than their juniors and both belonged to one integrated seniority list as Sr.TIA/Sr.SO, where the junior employee was getting higher grade pay of Rs. 5400/-. Quoting from the said order dated 26.11.2015 of the Tribunal, it was observed as under :-

"13. The question of law here is whether principle of stepping up of pay will apply. Therefore, first of all, we examine the issue of stepping up of pay. It is clear from the rules pertaining to stepping up of pay that stepping up of pay does not mean that in any situation where a superior officer or a senior gets less pay than his subordinate/ junior, his pay has to be brought at par with the junior. There are numerous situations in the government when this may happen. In fact, the DoP&T OM dated 4.11.1993 regarding stepping up of pay cites some such examples and we quote below same as follows:

"23. Instances which do not constitute an anomaly for stepping up of pay with reference to juniors.- Cases for stepping up of the pay of seniors in a pay scale to that of juniors are generally considered if the following conditions are satisfied:-

- (a) both the junior and senior officer should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;
- (b) the scales of pay of the lower and higher posts in which the junior and senior officer are entitled to draw pay should be identical;
- (c) the anomaly should be directly as a result of the application of FR 22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments or on any other account, the above provisions will not be invoked to step up the pay of senior officer.

.....

14. Another simple example would illustrate this. When a direct recruit IAS officer joins as SDM on his first posting, it may happen that the second officer (his subordinate) may draw higher pay as a result of his length of service. That does not reduce the authority or control of the SDM as a superior officer. But he cannot claim stepping up of pay. Therefore, on careful reading of the rule position regarding stepping up of pay and the respective Schemes, one would say that such stepping up of pay can be granted only in specific cases, as would be seen from the circular quoted above. We, therefore, are in agreement with the learned counsel for the respondents that this is a case where principle of

stepping up of pay would not apply at all. In fact, even if for arguments sake to apply stepping up of pay, we find that the Courts have only guaranteed stepping up of 'pay' and as pointed out by the respondents total pay drawn by applicants is higher. So, there is no contradiction."

27. After dismissing the OA No. 436/2015, the Principal Bench of the Tribunal held in the order dated 26.11.2015 as under:-

"17. However, while disposing of this matter, we came across an interesting fact, which is para 20 of the counter affidavit, which reads as follows:

"20. That the Accountants (Entry Grade of Rs.2800/-) who did not pass S.O.G.E. examination and who got their promotions as Senior Accountants (Grade Pay Rs.4200/-), thereafter got their second financial upgradation under ACP Scheme on completion of 24 years to pre-revised pay scale of Rs.6500-10500 (replaced with GP 4800 w.e.f. 1.1.2006) and subsequently, were granted third financial upgradation to GP 5400 on completion of 30 years of service."

18. What is not clear to us is why the second financial upgradation on completion of 24 years of service was in PB-2 with Grade Pay Rs.4800/- with effect from 1.01.2006? This is so for two reasons:

- (i) The replacement scale of Rs.6500-10500 is PB-2 with Grade Pay Rs.4600/-; and
- (ii) MACP upgradation has to be in the hierarchy of pay band/ Grade Pay and not hierarchy of promotional post. The next hierarchy of Grade Pay after 4200/- is 4600/-.

19. Therefore, on both counts it appears that second upgradation should have been in the Grade Pay of Rs.4600/-, in which case the third upgradation would be in the Grade Pay of Rs.4800/-. In such a situation, the paradox mentioned right in the beginning of this order vanishes. Since this is not an issue before us, we do not pass any direction on this. However, the respondents, if they so desire, may revisit this issue."

28. It is clear from above, that the juniors were wrongly allowed the GP of Rs. 5400/- through MACPS against their entitlement of Rs. 4800/- and in that case there would not be any anomaly. It is the wrong application of the guidelines of the MACPS by the respondents due to which the anomaly of different GP between the senior and junior employee was arising in OA No. 436/2015. Hence, the benefit of parity against a benefit illegally allowed to junior employees, was not allowed by the Tribunal in the OA No. 436/2015, which is cited by the respondents' counsel. But in the present OA before us, the applicant and his junior Sri SK Rout with whom the applicant claims parity of Grade Pay, are in the same cadre of Sr. SO/Sr.TIA with the same seniority list and the MACP Scheme guideline has been correctly implemented for the juniors like Sr. S.K.Rout who was allowed higher GP than the applicant. Further, as discussed earlier, the anomaly/paradox in this case was due to deficiencies in the cadre structure, which have not been rectified by the respondents in spite of the decisions in different coordinate Benches of this Tribunal and also judgments in respective High Courts. Hence, we are of the view that the facts in the OA No. 436/2015 are different from the facts of the

present OA for which the order dated 26.11.2015 of the Principal Bench in OA No. 436/2015 will not apply for the present OA before us.

29. Learned counsel for the respondents have filed an additional counter at the time of hearing, in which it was shown that the total pay of some of the applicants is higher than Sri SK Rout even after allowing the GP of Rs. 5400/-. It is also stated that some of the applicants have already availed one step up of pay and as per the Master Circular No. 56, second step up of pay by comparison with another junior is not admissible. The applicant's counsel in his reply argued that his claim in the OA is not for stepping up of pay, but for same Grade Pay as the junior. On perusal of the prayer made in the OA, it is seen that the relief sought for pertains to the same Grade Pay as the junior. Hence, the rules applicable for stepping up of pay will not apply to this OA.

30. It is further pointed out in the Additional Counter of the respondents that there are separate cadres in the Accounts Department and the employees recruited as Clerk (like the applicant) and recruited directly as JAA (like Sri SK Rout) belong to different seniority lists as enclosed at Annexure-R/8. It is seen from the Annexure-R/8 that there are separate gradation lists for the Accounts Clerk and for the Junior Accounts Assistant. But it does not prove the averment that after promotion of both Accounts Clerk and JAAs to the post of Accounts Assistant and then as Sr. SO/Sr. TIA, the seniority lists are maintained separately for the persons who were appointed directly as Accounts Clerks and for the persons who were recruited directly as JAA. The cadre structure could have been modified by the respondents, particularly after the orders of the co-ordinate Benches of the Tribunal regarding parity of GP between senior and junior employees of the cadre, by bifurcating the cadre consisting of the employees recruited as Accounts Clerk and employees recruited directly as JAA and even as Sr. SO/Sr.TIA, separate seniority lists can be maintained for both the streams of employees. In fact it is admitted by the respondents that for Sr. SOs, an integrated seniority list is prepared for the promotion to the next higher level posts in Group-B. Hence, the averment that both the applicant and Sri SK Rout belong to two different seniority lists cannot be accepted.

31. In this OA, the pay scales and Grade Pay of both the applicant and Sri SK Rout were same after promotion to Sr.TIA/Sr. SO and after allowing MACP benefit to the junior employee (Sri SK Rout), Sri SK Rout was getting higher GP of Rs. 5400/- compared to GP of Rs. 4800/- for the applicant due to faulty cadre structure as discussed in the preceding para of this order. The applicant was not eligible for any MACP benefit after availing three promotions. As stated in para 9 of the Counter, Sri SK Rout was recruited as JAA on 9.6.87 and he

got first promotion from JAA to AA on 9.6.90 (after three years of experience as JAA). Then he got second promotion from AA to SO on 28.3.96 and then promoted as Sr. SO on 22.3.2005. From 1.1.2006, SO and Sr. SO posts got merged to the grade pay of Rs. 4800/-. Hence, as on 1.9.2008 when the MACP scheme was launched, Sri Rout had already worked for more than 10 years as SO/Sr.SO for which he was allowed 3rd MACP benefit to the grade pay of Rs. 5400/-. The applicant had already availed three promotions for which he was not found to be entitled for MACP upgradation benefit as stated in the Counter and as a result, the present anomaly is occurring. From other OAs, it is seen that there are employees who have been promoted from JAA to Sr.SO directly without being promoted as AA. These employees had availed only one promotion if he was directly recruited as JAA. Such employees would be eligible for 2 MACP benefits and can get higher GP than Rs.5400/- under MACP, thus increasing the disparity further.

32. It is noticed that the respondents have not furnished before us if any action to remove the anomalies has been taken as nothing has been mentioned by the respondents in their pleadings about it in the context of the observations made by Hon'ble Madras High Court in para 4 of the judgment dated 3.4.2014 (Annexure-A/6) regarding the view of the DOPT that the anomaly is due to faulty cadre structure and not due to MACP Scheme. It is stated in the Additional Counter that no decision has been taken by the Government on the recommendations of the Seventh Pay Commission regarding stepping up of pay of the seniors at par with the juniors. It is also stated that the Railway Board's reference to the DOPT for allowing stepping up of pay of the seniors, is an inter-departmental reference, which does not lay down any law. These averments show that the respondents are well aware of the anomalous situation in the cadre for which, some of the juniors end up getting higher Grade Pay than the seniors after the juniors are allowed the benefit of MACP, where as the seniors are not eligible for MACP benefit. Further, no step has been taken by the respondents to address the problem through appropriate policy decision as observed earlier in this order. It is noticed that one reason for the anomaly is the practice adopted by the respondents in this case regarding manner of counting the promotions for an employee promoted directly to Sr. SO by-passing the level of AA and for another employee who first gets promoted as AA before being promoted as Sr. SO. Such anomaly in Grade Pay could have been avoided by either counting the direct promotion by-passing AA effectively as two promotions since the employee is being allowed double promotion when he is by-passing one level of promotion while being promoted to higher level, or by prohibiting promotion to Sr. SO by-passing the level of Accounts Assistant. Both category employees recruited

directly as Accounts Clerks and as JAAs can also be treated as separate cadre till promotion to the level of Sr. SO/ Group-B, (as per the averments made in the Additional Counter) so that such anomalies are avoided in future. By not taking any corrective action, the respondents are continuing with the system of cadre structure which was opined by the DOPT as faulty and it will create situations in which the existing anomaly will perpetuate.

33. As noted in the judgment of Hon'ble Karnataka High Court (discussed in para 19 above), the respondents are aware of the anomaly in pay between senior and junior employees of the Accounts cadre. It cannot be said that the anomalous situation is arising due to implementation of the MACP and as observed in the judgment dated 3.4.2014 (Annexure A/6) of Hon'ble Madras High Court, the DOPT was of the view that the anomalous situations are arising due to faulty cadre structure. It is clear that the faulty cadre structure is mainly responsible for the anomaly in pay between senior and junior and the respondents are yet to address the problem through suitable policy intervention. **Hence, the applicant should not be made to suffer due to inaction on the part of the authorities to address the problem and the issue no. (ii) of para 14 of this order is decided in favour of the applicant.**

34. In view of the facts and circumstances as discussed above and following the order dated 5.8.2011 of Madras Bench of the Tribunal in OA No. 1075 of 2010 (Annexure-A/5), the judgment dated 3.4.2014 of Hon'ble Madras High Court in Writ Petitions No. 1078, 10046 to 10049 of 2012 (Annexure-A/6 of the OA) and the judgment dated 20.8.2018 of Hon'ble Karnataka High Court in the case of T. Danappa & others (supra) (Annexure-A/26 to the applicant's Rejoinder), we are of the considered opinion that the applicant in this OA is entitled for the benefit of the Grade Pay of Rs. 5400/- with consequential benefits at par with Sri SK Rout. Accordingly, the respondents are directed to allow the grade pay of Rs. 5400/- in PB-2 to the applicant from the date his junior Sri SK Rout was allowed the same benefit with all consequential benefits.

35. The OA is allowed to the extent as mentioned above with no order as to costs.

36. All other OAs are also allowed to the extent as in the OA No. 722 of 2015.

(SWARUP KUMAR MISHRA)
MEMBER (J)

I.Nath

(GOKUL CHANDRA PATI)
MEMBER (A)

