

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No.040/00188/2015

Date of order: This the 06<sup>th</sup> day of March, 2019

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER**

**THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER**

1. Mrs. Mira Bharali
2. Sri Achyut Bijay Das
3. Mrs. Hemashree Saikia
4. Shri Sailendra Nath
5. Smt. Dipti Rani Hazarika
6. Shri Bibhash Ch. Dev

(All are working as UDC in the Central Silk Board, MSSO, Guwahati – 38 Assam).

7. Shri H. Jay Singh
8. Smt. Hijam Tombi Devi

(All are working as UDC In the Regional Tasar Research Station, Central Silk Board, Imphal, Manipur).

9. Mrs. Garima Rabha
10. Shri Kumud Chandra Das
11. Shri Laba Kumar Boro.

(All are working as UDC in the Regional Muga Research Station, Central Silk Board, Boko Assam).

12. Smt. Lila Das
13. Shri Bhupendra Choudhary

(All are working as UDC in the Regional Office, Central Silk Board, GUwahti-38, Assam).

**...Applicants**

By Advocates: Mr. M. Chanda, Mrs. U. Dutta & Ms. S. Begum

-Versus-

1. The Union of India,  
Represented by the Secretary to the Government of India  
Ministry of Textiles, New Delhi.
2. The Secretary  
Government of India  
Ministry of Personnel and Training  
North Block, New Delhi- 110001.
3. Central Silk Board  
Through Member Secretary  
Ministry of Textiles  
Govt. of India  
CSB Complex, BTM Layout  
Madiwala, Bangalore- 560068
4. The Deputy Director (A&A)  
Central Silk Board  
Ministry of Textiles  
Govt. of India  
CSB Complex, BTM Layout  
Madiwala, Bangalore- 560068.

**...Respondents**

By Advocate: Mr. B.C. Pathak, Central Silk Board

**ORDER**

**NEKKHOMANG NEIHSIAL, MEMBER (A):**

Being aggrieved with the impugned letter dated 18.03.2015 issued by the respondent No. 3/4 whereby claim of the applicants for grant of grade pay of Rs. 4200/- instead of Rs. 2800/-, attached to the post of Assistant, which is the next hierarchy of the applicants has been denied while granted benefit of 2<sup>nd</sup> MACP, the applicants has preferred the instant petition under

Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief/s:-

- “8.1 That the Hon'ble Tribunal be pleased to set aside the clause 2 of the MACP Scheme dated 19.05.2009 (Annexure-2) wherein DOPT has directed to grant the benefit of MACP in the immediate next higher grade pay in the hierarchy of the recommended revised pay band and grade pay as given in Section-1, Part-A of the 1<sup>st</sup> schedule of the CCS (Revised Pay) Rules 2008.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned Memorandum bearing letter No. CSB-63(29)/2009-ES-II (Vol-II) dated 18.03.2015 (Annexure- 5 Series).
- 8.3 That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to financial upgradation under the MACP Scheme to the next higher grade pay in accordance with the existing hierarchy in a cadre/category of posts as provided earlier under the ACP Scheme issued under O.M. No. 35034/1/97-Estt(D) dated 09.08.1999.
- 8.4 That the Respondents be directed to grant the Grade Pay of Rs. 4200/- instead of Rs. 2800/- in the pay band-2 of Rs. 9,300 – 34,800/- to the applicants from their respective date on which they have been granted the benefit of 2<sup>nd</sup> MACP in modification of the orders (Annexure-5 Series) passed by the respondents, granting benefit of 2<sup>nd</sup> MACP.
- 8.5 Costs of the application.
- 8.6 Any other relief(s) to which the applicants are entitled to as the Hon'ble Tribunal may deem fit and proper.”

2. Facts of the applicants in the instant case are that the applicants were initially appointed as Lower Division Clerk on different dates in the office of the Central Silk Board, located in the North Eastern Region. Subsequently, all the applicants were promoted to the grade of Upper Division Clerks on different dates,

after being found suitable in terms of the relevant recruitment rules in the Grade Pay of Rs. 2800/- in PB-2 of Rs. 5,200-20,000/-. However, due to non availability of vacancies in the cadre of Assistant, the applicants were not promoted to the Grade of Assistant inspite of completion of 20 years service and therefore, started stagnation in the same grade inspite of completion of 20 years of service. According to the applicants, since they have completed 20 years of regular service as Upper Division Clerk from different dates, they have attained eligibility for grant of 2<sup>nd</sup> MACP under the Govt. of O.M. dated 19.05.2009.

Sl. No.	Name and Designation of applicants	Due date of grant of 2 <sup>nd</sup> Financial upgradation
1.	Sri Achyut Bijay Das, UDC	04.09.2009
2.	Mrs. Mira Bharali, UDC	12.12.2010
3.	Mrs. Hemashree Saikia, UDC	27.12.2008
4.	Shri Sailendra Nath, UDC	13.01.2014
5.	Smt. Dipti Rani Hazarika, UDC	17.01.2014
6.	Shri Bibhash Dev, UDC	26.07.2014
7.	Shri Jay Singh Heirem, UDC	23.03.2010
8.	Smt. Hijam Tombi Devi, UDC	19.01.2014
9.	Mrs. Garima Rabha, UDC	01.12.2012
10.	Shri Kumud Chandra Das, UDC	03.01.2014
11.	Shri Laba Kumar Boro, UDC	07.01.2014
12.	Smt. Lila Das, UDC	01.02.2009
13.	Shri Bhupendra Choudhary, UDC	28.05.2008

3. Mr. M. Chanda, learned counsel appearing on behalf of the applicant submitted that being aggrieved for non-extension of the Grade Pay of Rs. 4200/-, all the applicants submitted representations on various dates due and admissible to them w.e.f. 01.09.2008 onwards in terms of Govt. of India OM dated 19.05.2009 which were rejected by the respondent authorities vide letter No. CSB-63(29)/2009-ES-II (Vol.II) dated 18.03.2015 on the ground that the judgment passed by the Chandigarh Bench of the Tribunal in O.A. No. 1038/CH/2010 is in personam and not applicable to others who are not parties to the case and applicants are also not eligible for financial upgradation under the MACP Scheme dated 19.05.2009.

4. Mr. Chanda has drawn our attention to the order dated 03.04.2014 passed by this Tribunal in O.A. No. **75 of 2013 (Rajini Kanta Deka & Ors. Vs. Union of India & Ors.)** and submitted that the present case is squarely covered with the said case which has been confirmed by the Hon'ble Court of Meghalaya at Shillong vide order dated 04.12.2014 in WP(C) No. 237 of 2014.

5. Mr. Chanda further submitted that this Tribunal in the aforesaid case has already settled the issue following the decision rendered by the Hon'ble Chandigarh Bench of Central Administrative Tribunal in O.A. No. 1038/CH/2010 (Rajpal Vs. UOI & Ors) dated 31.05.2011 which was further confirmed by the Hon'ble Division Bench of the Punjab and Haryana High Court in CWP No.

19387 of 2011 dated 19.10.2011. The SLP No. 7467/2013 filed before the Hon'ble Supreme Court against the said order was also dismissed vide order dated 15.04.2013. According to Mr. Chanda, relying on the aforesaid decisions, the Principal Bench of this Tribunal vide its order dated 26.11.2012 passed in O.A. No. 904 of 2012 directed the respondents to grant Grade Pay attached to the promotional post. Learned counsel, therefore, contended that since the case of the present applicant is squarely covered by the aforesaid decisions, similar direction may be issued in this case also.

6. On the other hand, Mr. B.C. Pathak, learned standing counsel for the Central Silk Board submitted that the applicants have been given the benefits of MACPS i.e. financial up-gradation to the Grade Pay of Rs. 2,800/- in the PB-1 Rs. 5,200-20,200/- w.e.f. the respective dates of their eligibility and orders issued to the said effect in terms of extant MACPS, which is as per the provisions of the said Scheme, which the applicants have accepted without any objection. This clearly supports the direction given by this Tribunal vide order dated 03.04.2014 passed in O.A. No. 75/2013, which is relied upon by the applicants. Therefore, they are not entitled to Grade Pay of Rs. 4,200/- w.e.f. the dates of their eligibility which is not as per the said Scheme. Therefore, their claim is liable to be rejected.

7. According to Mr. Pathak, the claim of the applicants as of now, is based on the order dated 03.04.2014 passed in O.A. No.

75/2013 by this Tribunal which is a different case and unconnected with the Central Silk Board. Said order dated 03.04.2014 is based on the order dated 31.05.2011 passed by the Hon'ble CAT, Chandigarh Bench in O.A. No. 1038/CH/2010 in 'Raj Pal-vs- Union of India'. The orders referred to herein above, passed by the Hon'ble CAT, Guwahati Bench and Chandigarh Bench pertains to different footing and different departments and is not a case of similarly situated case of employees. Moreover, the fitment given to the applicants under the Scheme in the GP is absolutely based on the MACP Scheme.

8. We have heard the learned counsel for both the parties. Perused the pleadings, materials placed on record and the decisions relied upon. The aforesaid matter is no longer res integra. We find that the identical issue has been dealt with by the Chandigarh and the Principal Benches of the Tribunal as well as by the Hon'ble High Court of Punjab and Haryana and the Apex Court. The Chandigarh Bench of the Tribunal in O.A. No. 1038/CH/2010 (Rajpal Vs. Union of India & Ors.) has passed the following observation and orders:-

"13. It has also been settled that the ACP would be granted on completion of the required years of service in the hierarchy of posts for the posts of LDC/Hindi Typists, and not in the next higher scale in the recommended scales. The same principle would have to be applicable in regard to grant of MACP to the applicant. The only difference is that while in case of ACP two financial upgradations

were granted on completion of 12 and 24 years of service, in case of MACP, three upgradations on intervals of 10, 20 and 30 years of service.

14. ....

15. Be that as it may, the principle enunciated and settled by the Tribunal/High Court for grant of ACP cannot be changed and the same principle would apply for grant of MACP to him. The only difference is of number of years required to be completed. We find no justification to take a different view in the matter.

For the foregoing reasons, the impugned order dated 9.8.2010, qua the applicant, fixing his pay in PB-1 with grade pay of FR 2400/- under the second MACP, and the order dated 10.8.2010 are hereby quashed and set aside. Consequently, the respondents are directed to grant second financial upgradation to the applicant under the MACPS from due date fixing his pay in the hierarchy of posts decided in his case earlier and to pay the resultant arrears without interest, within a period of 2 months from the date of receipt of a copy of this order."

The respondents therein have challenged the aforesaid order before the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 19387/2011. The Hon'ble High Court vide judgment and order dated 19.10.2011 while dismissing the said CWP has observed as under:-

"...the contention raised by the learned counsel for the petitioners to the effect that the earlier scheme of ACP stood superseded by MACP Scheme is being noticed only to be rejected. The entire objective of introduction of the ACP/MACP Scheme is to alleviate stagnation as regards an employee who has a number of regular years of service on the same post without any avenue of promotion. It is under such circumstances that a financial incentive is sought to be granted to an employee upon completion of a certain number of years of service

on the same post. Under the ACP Scheme of 1999, the financial upgradations were to be granted upon completion of 12 years and 24 years of regular services whereas under the MACP Scheme such financial upgradations are envisaged upon completion of 10/20 or 30 years of service. The contention raised on behalf of the petitioners if accepted would defeat the very objective for which such Schemes have been introduced."

The SLP preferred before the Apex Court was dismissed on 15.04.2013. The Principal Bench in a similar matter being O.A. No. 904/2012 vide its order dated 26.11.2012 held as under:-

"8. In fact, respondents have wrongly interpreted the terms and conditions mentioned in the MACP Scheme, issued by the Deptt. Of Personnel & Training, in the case of the applicants. By the said Scheme, the eligible government servants are to be placed in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands and grade pay and not merely in the next higher scale of pay as per the recommendations of the 6<sup>th</sup> Pay Commission. In the hierarchy after the scale of UDC, the next scale is that of Assistant. Therefore, the respondents should have given the next higher grade pay and pay band attached to the next promotional post in the hierarchy, namely, the Assistants carrying the pay scale of Rs. 9300-34800 and grade of Rs. 4200/-."

9. We have gone through the written statement filed by the respondents as well as rejoinder filed by the applicant. From the perusal of records, it is observed that the applicants are entitled to Grade Pay of Rs. 4200/- which the Grade Pay of the hierarchical promotional post of Assistant.

10. Considering the above fact and following the decision of Co-ordinate Bench of CAT, Chandigarh Bench which was confirmed by the Hon'ble Punjab and Haryana High Court as well as Hon'ble Supreme Court and the decision of this Tribunal rendered in the case of **Rajini Kanta Deka (supra)** which has been confirmed by the **Hon'ble Court of Meghalaya at Shillong**, we direct the respondents to decide the present issue in accordance with aforesaid precedents after examining the case of the applicants and if they are found similarly situated, similar benefits be granted to the present applicants also. The said direction shall be complied with by the respondent authorities within a period of three months from the date of receipt of a copy of this order.

11. With the above observations and directions, O.A. stands disposed of accordingly. No order as to costs.

**(NEKKHOMANG NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**