

**Reserved****CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR****Original Application No.200/01072/2016**

Jabalpur, this Tuesday, the 07<sup>th</sup> day of May, 2019

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Smt. Harshlata Salvey, Age 63 years, w/o Shri Vijay Kumar Salvey (Retired as Chief Matron, Railway Hospital, New Yard, Itarsi), R/o Ward No.17, Near Mekalsuta ITI, Asfabad (Malviyaganj), Itarsi, Dist. Hoshangabad (M.P.) – 461111  
**-Applicant**

**(By Advocate – Shri R.S. Tripathi)**

**V e r s u s**

1. Union of India through its General Manager, West Central Railway, Indira Market, Jabalpur (M.P.) – 482001.
2. Divisional Railway Manager (Personnel), West Central Railway, Bhopal – 462002 (M.P.)  
**- Respondents**

**(By Advocate – Shri Sapan Usrethe)**

*(Date of reserving order : 01.10.2018)*

**O R D E R**

**By Navin Tandon, AM.**

The applicant is aggrieved by non grant of MACP-3.

**2.** The undisputed facts of the case are as under:

**2.1** The applicant was appointed in the Railways as Staff Nurse on 12.08.1980 in the pay scale of Rs.425-700 (3<sup>rd</sup> CPC).

**2.2** She received her first promotion on 01.03.1993 on the post of Sister in-charge in the pay scale of Rs.5500-9000 (5<sup>th</sup> CPC) and got her second promotion on the post of Matron on 18.06.2001 in the pay scale of Rs.6500-10500 (5<sup>th</sup> CPC).

**2.3** She has superannuated on 30.06.2013.

**2.4** The Railway Board, vide RBE No.124/2008 dated 22.09.2008 (Annexure A-3) has merged the pay scale of Rs. 6500-10500 of Matron and 7450-11500 of Chief Matron and redesignated it as Chief Matron in the Pay Band of Rs.15600-39100 PB-3 in Grade Pay of Rs.5400.

**2.5** The respondent department vide its order dated 26.02.2013 (Annexure A-4) granted 3<sup>rd</sup> MACP in Grade Pay of Rs.6600/- w.e.f. 18.06.2011.

**2.6** The respondents vide order dated 27.03.2017 (Annexure R-1) have granted MACP-3 w.e.f. 12.08.2010 by upgrading her pay from 9300-34800 (PB-2) Grade Pay Rs.5400/- to 15600-39100 (PB-3) Grade Pay Rs.5400/-.

**3.** The applicant has sought for the following reliefs:

**“8. Relief(s) sought:**

It is, therefore, humbly prayed that this Hon'ble Tribunal be pleased to grant the following relief(s):-

8.1 Call for the complete material pertaining to present controversy from the non-applicants;

8.2 Direct the respondents to revise the pension payment order (PPO) dated 24.6.2013 after granting financial upgradation under ACP and 3<sup>rd</sup> financial upgradation w.e.f. 12.8.2010.

8.3 Direct the respondents to pay enhanced rated of pension, its arrears as well as arrears of pay and perquisites with interest @ 12% per annum.

8.4 Grant any relief as this Hon'ble Tribunal deems fit and proper.

8.5 Cost of litigation because applicant is a retired employee, senior citizen and Cancer patient.”

**4.** The applicant, in her rejoinder, has brought out that pursuant to the decision of the Principal Bench in OA 141/2012 in the case of **Delhi Nurses Union vs. Union of India & Ors**, decided on 09.05.2012, Ministry of Health and Family Welfare have already issued instructions for grant of Grade Pay of Rs.6600/- to similarly placed persons.

**4.1** Further, Railway Board, vide RBE No.87/2018 dated 14.06.2018 (Annexure A-6) have also recommended grant of Grade Pay of Rs.6600/- as MACP-3 to Chief Matron under similar circumstances.

5. The respondents, in their reply, have submitted that the Railway Board, vide their letter dated 05.03.2013 (Annexure R-5) have clarified as under:

“As regards example No.II) (a), it is stated that the next promotional post for Chief Matron’s post is Assistant Nursing Officer (ANO) in same Grade Pay of ₹5400/PB-3, therefore, Chief Matron entitled to be considered for 3<sup>rd</sup> financial upgradation to the same Grade of ₹5400 in PB-3 in terms of Board’s letter dated 13-12-2012 (RBE No.142/2012).”

**5.1** Further, the stipulation (a) in RBE No.87/2018 is applicable only to those who have got first two financial upgradation under ACP scheme, whereas the applicant has got no financial upgradation under ACP scheme and has been promoted twice during that period.

6. We have heard the learned counsel for the parties and perused the pleadings and documents available on record.

### **FINDINGS**

7. It is undisputed that the applicant has got two promotions on 01.03.1993 and 18.06.2001. Her second promotion was in the pay scale of Rs.6500-10500 (6<sup>th</sup> CPC), which, as per RBE No.124/2008 (Annexure A-3) has been merged in PB-3 (15600-20200) in the Grade Pay of Rs.5400/-.

8. In a similar case, i.e. OA No.141/2012, the Principal Bench of this Tribunal has held as under:

*“7. We have to adjudicate what has been provided in the MACP Scheme. Annexure-I is the copy of the MACPS introduced as per recommendations of the 6th CPC. It is also an admitted fact that as per provisions of MACPS, an employee is entitled for the next higher Grade Pay while granting third MACPS upgradation. What is the meaning of immediate next Higher Grade Pay. All the ANS will be in the Grade Pay of Rs.5400/- and the DNS, which is the promotional post, will also be in the Grade Pay of Rs.5400/- . The criteria for promotion is entirely different. While granting promotion to ANS to DNS, one would be entitled for one additional increment and then her pay is to be fixed at the next higher stage, whereas while granting benefit of MACPS, one is entitled for the next higher Grade Pay. It is immaterial that ANS, the feeder cadre, and DNS, the promotional cadre, are in the same Grade Pay of Rs.5400/-, and while granting the benefit of MACPS, ANS will draw higher Grade Pay of Rs.6600/- in comparison to DNS, the promotional post, of Rs.5400/- . Earlier while granting the benefit of MACPS, the pay of the applicants was fixed with Grade Pay Rs.6600/- . Annexure A-6 is the copy of the order dated 01.04.2011 fixing the pay of the applicants in PB-3 with Grade Pay Rs.6600/- . It has been issued by the Government of India, Office of Medical Superintendent, Safdarjung Hospital & VMMC, New Delhi, but afterwards this Grade Pay was revised and the said order was withdrawn, and Grade Pay of Rs.5400/- was granted to the applicants. It has also been stated by the applicants that their counter-parts in AIIMS are getting the Grade Pay of Rs.6600/- . Earlier they were in the scale of PB-3 Rs.15600-39100 + Grade Pay Rs.5400/-, and were granted the next higher Grade Pay of Rs.6600/- under MACPS, and it has not been stated by the respondents that this order has been reviewed. When the counter-parts of the applicants in AIIMS are getting the same higher Grade Pay of Rs.6600/-, then how the applicants can be discriminated. Annexure A-5 contains answers to certain frequently asked questions on MACPS. At serial number 6, the point of doubt, ‘Whether the promotions in*

*same grade would be counted for the purpose of MACPS?’ has been replied as follows:*

*“The financial upgradation under the MACPS is in the immediate next higher grade pay in the hierarchy of recommended revised pay bands and grade pay as given in CCS (Revised Pay) Rules, 2008. However, if the promotional hierarchy as per recruitment rules is such that promotions are earned in the same grade pay, then the same shall be counter for the purpose of MACPS.”*

*We are not concerned here with promotion, but we have to adjudicate as to what Grade Pay would be admissible while granting the benefit of third MACPS on completion of 30 years of service without promotion, and according to the said query, the immediate next higher Grade Pay is admissible to such an employee, and the intention of granting MACPS is also the same. The respondents have not disputed that the next higher Grade Pay is to be granted while granting the benefit of third MACPS upgradation, even though they have disputed the admissibility of Grade Pay of Rs.6600/- because the ANS is the feeder cadre for the promotional post of DNS, and the Grade Pay of both ANS and DNS is Rs.5400/-. When an ANS will be promoted as DNS, then she would be entitled for Grade Pay of Rs.5400/-, whereas ANS, the feeder post, will be entitled for Grade Pay of Rs.6600/- while granting the benefit of third MACPS, but it is immaterial because promotion is entirely different and the benefit of third MACPS is different and both are to be decided on different parameters.*

**8.** *In this connection, the learned counsel for the applicants cited a judgment of the Hon’ble High Court of Delhi in WP(C) No.3420/2010 in the matter of **R. S. Sengor & others v Union of India & others**, decided on 04.04.2011. The Hon’ble High Court has held as follows:*

*“11. Whatever may be the dispute which may be raised with reference to the language of paragraph 2 of the MACPS the illustration as per para 4 of annexure I to the OM, contents whereof have been extracted hereinabove, make it clear that it is the next higher Grade Pay which has to be given and not the grade Pay in the next hierarchical post and thus we agree with the Respondents*

*that Inspectors have to be given the Grade Pay after 10 years of Rs.4800/- and not Rs.5400/- which is the Grade Pay of the next Pay Band and relatable to the next hierarchical post. To put it pithily, the MACPS Scheme requires the hierarchy of the Grade Pays to be adhered to and not the Grade Pay in the hierarchy of posts.”*

*Hence, in view of the judgment of the Hon’ble High Court, it is evident that the next higher Grade Pay has to be given and not the Grade Pay in the next hierarchical post. It is immaterial that the next hierarchical post is DNS and on that post the Grade Pay is Rs.5400/-, but while granting the third financial upgradation under MACPS, the benefit is to be granted as per the provisions thereof, and it is the next higher Grade Pay which is admissible to an employee, and the next higher Grade Pay is Rs.6600/-. Since ANS is in the Grade Pay of Rs.5400/-, while granting the benefit of third MACPS, ANS will be given the Grade Pay of Rs.6600/- which is the next Grade Pay.”*

**9.** Further, Railway Board, vide RBE No.87/2018 dated 14.06.2018 (Annexure A-6), has stated as under:

“a) Those Staff Nurse/Nursing Sister/Matron/Chief Matron who have been awarded 1<sup>st</sup> and 2<sup>nd</sup> financial upgradation under ACP Scheme in the hierarchy pay scale of Rs.5500-9000 and Rs.6500-10500 upto 31-8-2008 may be granted a replacement Grade Pay of Rs.4800/-/PB-2 and Rs.5400/PB-3. Therefore, the 3<sup>rd</sup> financial upgradation under MACP Scheme, if granted to these categories of officials, may be revised to Rs.6600/PB-3 from Rs.5400 in PB-3.”

**10.** It is seen that this case is squarely covered by the orders of the Principal Bench of this Tribunal in OA No.141/2012.

**10.1** The Railway Board, vide RBE No.87/2018, has also stipulated grant of Grade Pay Rs.6600/-/PB-3 for 3<sup>rd</sup> financial

upgradation under MACPS under circumstances similar to the applicant.

**10.2** We do not find any force in the argument of learned counsel for the respondents that the stipulation (a) in RBE No.87/2018 is applicable only to those who have got first two financial upgradation under ACP scheme, whereas the applicant has got no financial upgradation under ACP scheme and has been promoted twice during that period. The applicant has earned two promotions prior to 31.08.2008 and, therefore, her situation cannot be inferior to those who have received the said scales in first and second financial upgradation under ACPS.

**11.** Accordingly, the OA is allowed. Respondents are directed to grant the benefit of MACP-3 to the applicant in the Grade Pay of Rs.6600/- in PB-3 in the scale of Rs.15600-39100 w.e.f. 12.08.2010 with all consequential benefits. This exercise shall be completed within a period of two months from the date of receipt of a certified copy of this order. No costs.

**(Ramesh Singh Thakur)  
Judicial Member**

am/-

**(Navin Tandon)  
Administrative Member**