

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT BENCH, RANCHI
OA/051/00060/16**

Date of order: 11.02.2019

C O R A M

**HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
HON'BLE MR. J.V.BHAIRAVIA, JUDICIAL MEMBER**

1. Biswajit Mondal, s/o Sri P.C. Mondal, resident of New A.G. Colony, Qr. No. Type II/TS/40, Doranda, District-Ranchi.
2. Amit Kumar, S/o Sri Abinash Prasad, resident of Flat No. 303, M.S. Towar, Block 'C', North Office, Para Donanda, Ranchi.
3. Basant Kumar, S/o Sri M. Yadav, resident of 3A, 3rd floor, Sai Apartment, Road, No. 9, Vikas Nagar, Latma Road, near Singh More, Ranchi.
4. Rahul Vansbardhan, Asstt. Audit Officer (AAO), Office of the Principal Accountant General (Audit), Jharkhand, Ranchi, s/o Sri Sheo Kumar Roy, resident of Flat No. E/3, Saubhagya Apartment, South Office Para, Doranda, Ranchi, Jharkhand.
5. Ashish Pandey (AAO), Office of the Principal Accountant General (Audit), Jharkhand, Ranchi, s/o Sri G.S. Pandey, resident of Flat No. 402, Ankur Apartment, North Office Para, Doranda, Ranchi, Jharkhand.
6. Sanjeev Kumar Sharma, (AAO), Office of the Principal Accountant General (Audit), Jharkhand, Ranchi S/o Sri A.N. Sharma, resident of New A.G. Colony, Qr. No. N: Type/2/TS/16, Doranda, Ranchi, Jharkhand.
7. Randhir Kumar, (AAO) Office of the Principal Accountant General (Audit), Jharkhand, Ranchi, S/o Sri N.P. Singh, resident of Krishna Sadan, Kailash Puri, Kilburn Colony, Hinoo, Ranchi-834002, Jharkhand.
8. Dilip Kumar, s/o Sri Rameshwar Ram, resident of A.G. Colony, Qr. No. N/Type III, B-28, Doranda, Ranchi, Jharkhand.
9. Dipshikha, D/o Om Prakash Sharma, resident of Flat No. 301, Sahdeo Ahalika, Gouri Shankar, Naya Doranda, Ranchi, Jharkhand.
10. Jugal Kishore Murmu, S/o LT Purnendu Murmu, c/o Mr. B. Haldar, 2nd Lane, Netaji Nagar, near Post Office, Kanta Toli, Ranchi, permanent resident of Village-Chukri, PO-Holdajuri, PS-Dhalbh, Via-Ghatsila, District-Singhbhum (Jharkhand).
11. Punit Kujur, s/o Birendra Kujur, resident of Peace Road by Lane, Mariampur, Lalpur, Ranchi-834001.

12. Richa Ragini, D/o Pranab Kumar Paul, resident of Flat No. A3, Sri Roshni Enclave, Behind A.G. Colony, North Office Para, Doranda, Ranchi-834002.
13. Anjali Arpana, w/o Chhitij Kerketta, resident of Flat No. B/301 Shiv Sarovar Apartment, Purani Ranchi, Ranchi-834001.
14. Arvind Joy Sanga, s/o Dasa Sanga, resident of Road No. 3, Bosco Nagar, P.O.-Hatia, Ranchi.
15. Abhishek Sharma, s/o Sri A.K. Sharma, resident of Krishna Sadan, Kailashpuri, Hinoo, Ranchi.

..... Applicant.

- By Advocate: - Mr. M.A. Khan

-Versus-

1. Union of India through THE Secretary to Government of India, Ministry of Public Grievances (Department of Personnel & Training), North Block, New Delhi-110001.
2. The Comptroller of Audit, General of India, 9, Deen Dayal Upadhyay Marg, New Delhi-110124.
3. The Principal Accountant General (Audit), Office of the Principal Accountant General (Audit) PO & PS-Doranda, Ranchi.
4. Sr. Audit Officer/Admn., Office of the Principal Accountant General (Audit) PO & PS-Doranda, Ranchi-834002.

..... Respondents.

By Advocate: - Mr. Suresh Kumar

ORDER

Per Mr. Justice L. Narsimha Reddy, Chairman.:-

The applicants are working as Assistant Audit Officers (AAO) in the Office of Principal Accountant General (Audit), Jharkhand, Ranchi. They made individual representations in the year 2015 claiming that several Officers, who were junior to them, while in the Grade Pay of Rs. 4800/- are drawing Grade Pay of Rs. 5400/-, and they are also entitled to the same Grade Pay. Reference was made to the orders passed by several Benches of the Tribunal as well as the orders passed by certain Hon'ble High Courts. On a consideration of representation made by the applicants, the respondents passed

order dated 18.09.2015. It was mentioned that the discrepancy as to Grade Pay between the applicants and their juniors was on account of the fact that the latter have been extended the benefit of MACP. Reference was made to office memorandum dated 19.05.2009. This OA is filed challenging the order dated 18.09.2015.

2. The applicants contend that in view of the orders passed by various Benches of this Tribunal, including Circuit Bench at Ranchi, a senior became entitled to a higher grade pay if his junior is drawing the same.

3. Respondents filed their written statement. They state that the benefit of MACP granted to the junior cannot be extended to the seniors, automatically. They have also referred the judgment of Full Bench of the Ernakulam Bench of the Tribunal. According to him, the direction issued by the Madras Bench of this Tribunal is to the effect that if a senior is drawing a lesser Grade Pay than juniors, on account of the extension of the benefit of MACP to the juniors, the seniors also become eligible for MACP on fulfillment of eligibility criteria.

4. We heard Shri M.A. Khan, learned counsel for the applicant and Shri Suresh Kumar, learned counsel for the respondents in detail.

5. The Assured Career Progression Scheme (ACP) was introduced by the government as an anti-stagnation measure. If an

employee does not get any promotion on account of non availability of vacancy or promotional avenues for a period of 12 years, he would be entitled to the benefit of upgradation of pay. Similar benefit is available in the next span of 12 years also. It was replaced by MACP. Under this, the service is divided into three parts. First 10 years, then 10 to 20 years and thereafter 20 to 30 years. If in these spells, the employee did not get promotion or upgradation, he will be entitled to first, second and third MACP, as the case may be. It is almost equivalent to promotion. In the relevant order, it is made clear that grant of MACP is personal to the employee and that it has nothing to do with the seniority and cadre structure.

6. An issue of similar nature arose before the Madras Bench of the tribunal. A senior complained that his junior was drawing higher Grade Pay. On verification, it emerged that the discrepancy was on account of the fact that the junior was extended the benefit of MACP, whereas the senior did not get it. The Tribunal directed that the case of the senior must also be considered for grant of MACP. The order passed by the Tribunal was confirmed by the Hon'ble Madras High Court and the Hon'ble Supreme Court.

7. Some Benches of the Tribunal granted relief in terms of the order passed by the Madras Bench. However, no specific mention was made to the fact that the extension of benefit must be in the form or shape of MACP but not automatic upgradation.

8. We, therefore, dispose of this OA directing that the respondents shall consider the cases of the applicants for grant of MACP as was done in the case of their juniors. However, the consideration must be in terms of the relevant official memoranda. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order. We leave it to the applicants to submit representation in addition to the one filed earlier.

9. There shall be no order as to costs.

[J.V. Bhairavia]
Member (J)

[Justice L. Narasimha Reddy]
Chairman

Pkl/