

**Central Administrative Tribunal  
Principal Bench, New Delhi**

O.A. No.461/2014

Wednesday, this the 10<sup>th</sup> day of April 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. H M S Tanwar  
1014, Sec 37, NOIDA  
Distt. Gautam Budh Nagar  
UP 201303
2. P K Maji  
C-108, Plot II, Sector 23  
Dwarka, New Delhi – 110 077
3. Smt. Usha Neelakandan  
A-36, Pandara Road, New Delhi – 3
4. Baljit Singh Brar  
F-216, PU Hostel, Lodhi Road  
New Delhi – 3
5. A K Gupta  
B-314, Vivek Vihar  
Sector 82, Noida
6. Amulya Narain Shukla  
D-2, 814, Shalimar Garden Ext-1  
Ghaziabad – 201 005

...Applicants

(Mr. Padma Kumar S, Advocate)

Versus

1. Union of India through  
Secretary  
Ministry of Defence  
South Block, New Delhi
2. Office of Joint Secretary (Training)  
And Chief Administrative Officer  
Ministry of Defence  
E Block Huments  
New Delhi – 110 011

3. Secretary,  
DoPT, North Block  
New Delhi

4. Secretary  
Department of Expenditure  
Ministry of Finance, North Block  
New Delhi

...Respondents  
(Mr. A K Singh, Advocate)

**O R D E R (ORAL)**

**Justice L. Narasimha Reddy:**

The applicants are employees in the Ministry of Defence. They claim the benefit of 3<sup>rd</sup> Modified Assured Career Progression (MACP) Scheme. Through an order dated 16.12.2013, the respondents informed them that they are not entitled for the MACP since they have been extended the benefit of Non-Functional Scale (NFS) of ₹8000-13500 (Grade of ₹5400/- Pay Band 3). The said order is challenged in this O.A.

2. The applicants contend that the NFS has a totally different connotation and is independent of the MACP. Alternatively, they contend that though an order was passed putting them in the NFS but the same was not implemented and accordingly, they are entitled for MACP.

3. The respondents filed counter affidavit, furnishing the details of service of the applicants. It is stated that the applicants were put in the NFS on finding them to be eligible. The counter

affidavit is, however, silent as to whether that NFS was implemented in the case of the applicants at all.

4. We heard Mr. Padma Kumar S, learned counsel for applicants and Mr. A K Singh, learned counsel for respondents.

5. The applicants have been claiming benefit of MACP. The Scheme of MACP contemplates that an employee shall be entitled for upgradation in his pay scale if he did not earn promotion in the spell of ten years or was not extended the benefit of any upgradation in the pay scale, in whatever form. In case the applicants were extended the NFS, it would certainly upset the MACP. If, however, the benefit was not extended, i.e., the applicants are not paid the NFS, they became entitled to be extended the benefit of MACP.

6. The O.A. is accordingly disposed of directing that:

(a) if the applicants were not put into the NFS of ₹8000-13500 (equivalent to Grade Pay of ₹5400/- Pay Band 3), they shall be entitled to be extended the MACP,

(b) If on the other hand the order extending the benefit of NFS has been implemented and the applicants

are being paid the salary of that pay scale, they shall not be entitled to any benefit of MACP.

There shall be no order as to costs.

**( Mohd. Jamshed )**  
**Member (A)**

**( Justice L. Narasimha Reddy )**  
**Chairman**

**April 10, 2019**  
/sunil/