

**CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH, AHMEDABAD**

Original Application Nos.93/19, 94/19, 95/19, 96/19, 97/19, 98/19, 99/19, 100/19, 101/19, 102/19, 103/19, 104/19, 105/19, 106/19, 107/19, 108/19, 109/19, 110/19, 111/19, 112/19, 113/19, 114/19, 115/19, 116/19, 118/19, 119/19, 136/19, 137/19, 138/19, OA 491/16, OA 273/18, OA 90/18, OA 121/18, OA 375/17, OA 91/18, OA 95/18, 157/18, 299/18, 94/18, 209/18, 96/18, 120/18, 92/18, 93/18, 282/18, 208/18, 503/17, 167/18, 122/18, 97/18, 119/18 and 86/18.

Reserved on : 24.07.2019

Pronounced on : 17.09.2019

CORAM :

Hon'ble Shri Pradeep Kumar, Member(Administrative)

Hon'ble Shri M.C.Verma, Member (Judicial)

OA 93/2019

Natvarbhai S. Makwana, Son of Shankarbhai Makwana,
Age 65 years, Residing at:1768/270, Gayatrinagar GHB,
Chandkheda, Ahmedabad – 382 424.

... Applicant

Versus

1. The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
2. The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
3. The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
4. The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 94/2019

Munawwar Ali Mujaffar Ali Kadri, Son of Mujaffar Ali Mirasaheb Kadri,
Age 60 years, Residing at: 2018, Saiyed Wada, B/H. Sarita Hotel, Khanpur,
Ahmedabad – 380 001.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ), Office of the Chief Postmaster General,
Gujarat Circle, Khanpur, Ahmedabad – 380 001.

... Respondents.

With OA 95/2019

Bhagwanbhai Muljibhai Vankar, Son of Muljibhai P Vankar,
Age 65 years, Residing at: 50, Kamla Nehru Park Society,
Near A.D.C. Bank, Behrampura, Ahmedabad – 380 022.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 96/2019

Mohammedkhan Abdul Sattar Khandu,
Son of Abdul Sattar Ibrahim Khandu Age 60 years
Residing at: Hanuman Gali, Opp. GPO. Salapose Road,
Mirzapur, Ahmedabad-380001.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 97/2019

Ramesh B Patni, Retired Postman, Son of Babbhai Patni Age 61 years
Residing at: 31/30, Motilal Lallubhai Ni Chali, Opp. Green City, Asarwa,
Ahmedabad – 380 016.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 98/2019

Thomas Peter Parmar, Son of Peterbhai Parmar, Age 64 years
Residing at: 12, Alim Apartment, Maninagar(E), Ahmedabad-380 008.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With OA 99/2019

Gunvant A Vyas, Son of Ambashankar Vyas, Age 65 years,
Residing at: M-5/5/36 Shastrinagar, Naranpura, Ahmedabad – 380063. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With OA 100/2019

Kushalbhai D Parmar, Son of Dungarbhai Parmar, Age 61 years
Residing at: B/76, Tejkiran Madhav Tenament, IOC Road,
Chandkheda, Ahmedabad 382 424.

With OA 101/2019

Sadabhai K Parmar, Son of Kanjibhai Parmar, Age 62 years
Residing at: 15/359, Gayatrinagar, Nr. Jantanagar, Torrent Power Rd,
Amraiwadi, Ahmedabad – 380 026.

With OA 102/2019

Parshottambhai R Dodia, Son of Revabhai Dodia,
Age 65 years, Residing at: H-1/301, Devraj Residency, Opp. Shriji Bunglow,
New Naroda-382330. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.

- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
... Respondents.

With **OA 103/2019**

Himatlal Mafatlal Shrimali, Son of Mafatlal G Shrimali, Age 66
Residing at: C-16, Mayur Park, Opp. Satluj Hotel, Naroda Patia,
Ahmedabad 382 340. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With **OA 104/2019**

Dineshsinh Laljibhai Raol, Son of Laljibhai Raol, Age 61 years,
Residing at: E-202, Kanakkala Van, 100 feet Ring Road,
Opp. Rahul Tower, Satellite, Ahmedabad 380 015. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With **OA 105/2019**

Navin Chhaganlal Patel Son of Chhaganlal K Patel, Age 59 years
Residing at : 27, Sahajanand Crystal Bungalows , Opp. Science City,
Sola, Ahmedabad – 380060 Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With OA 106/2019

Shailesh Ratilal Shah Son of Ratilal C Shah Age 60 years
Residing at: RH-37, Umasutnagar Society, Near Vastrapur Railway Station,
B/H. Yogeshwar Apptt., Vejalpur Road, Ahmedabad – 380 051. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With OA 107/2019

Ghanshyam S Jaiswal, Son of Sampatrao Jaiswal, Age 60 years
Residing at: B 49, Sumatinath Prabhu Society, Naroda, Ahmedabad – 382 330. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With OA 108/2019

Ravishankar Ishwerbhai Brahmaniya, Son of Ishwerbhai Brahmania,
Age 60 years, Residing at: B-31, Shri Prabhu Society, IOC Road,
Chandkheda, Ahmedabad – 382 424. ..Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With OA 109/2019

Mohammedbhai Fatesing Rana, Son of Fatesing J Rana Age 64 years
Residing at: Punjalal ni Chali, Behind Raikhad Post Office, Raikhad,
Ahmedabad -380001.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 110/2019

Chhaganbhai Somabhai Patel, Son of Somabhai Govanbhai Patel, Age 59 years
Residing at: A/182, Karnavati Nagar Society, Nava Naroda,
Krishnanagar, P.O. Saijpur Bogha, Ahmedabad – 382 345.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 111/2019

Rohitkumar R Dwivedi, Son of Ramprapanna Dwivedi,
Age 60 years Residing at: 18, Swetanjali Society P-II,
Nr. Yash Tower, Satellite, Ahmedabad – 380015.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 112/2019

Jayprakash B Datania, Son of Bhikhabhai Datania, Age:62 years,
Residing at: D-31, Arjun Apartment, Ghatlodia, Ahmedabad – 380061.

... Applicant

Versus

- | | |
|---|-------------------------|
| <ol style="list-style-type: none"> 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001. 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001. 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004. 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. | <p>... Respondents.</p> |
|---|-------------------------|

With OA 113/2019

Jayantibhai P Solanki, Son of Pethabhai Solanki, Age 64 years,
Residing at: D-303, Achal Dream House Flats,
B/H Visat Mata Tample, Chandkheda, Ahmedabad – 382 424.

... Applicant

Versus

- | | |
|---|-------------------------|
| <ol style="list-style-type: none"> 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001. 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001. 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004. 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. | <p>... Respondents.</p> |
|---|-------------------------|

With OA 114/2019

Govindsingh P Negi, Postman Ellisbridge, Son of Premsingh Negi, Age: 58 years,
Residing at: 11, Gajanand Park, Vatva, Ahmedabad – 382 445.

... Applicant

Versus

- | | |
|---|-------------------------|
| <ol style="list-style-type: none"> 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001. 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001. 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004. 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. | <p>... Respondents.</p> |
|---|-------------------------|

With OA 115/2019

Shivabhai Manabhai Rathod, Son of Manabhai Rathod, Age 60 years
Residing at: H-101, Pramukh Oasis,

Near Behind Sawagat Flemingo,
Near Saragasan Cross Road, Saragasan – 382 421.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 116/2019

Kanjibhai H Vaghela, Son of Hirabhai Vaghela, Age 60 years

Residing at: B-9, Tejendra Duplex, Opp. Amraiwadi PO, Ahmedabad – 380 026. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 118/2019

Pravinchandra Kanjibhai Parmar, Son of Kanjibhai J Parmar,

Age 62 years, Residing at: 16, Chakradhari Society,

Near Kothari Tower, Ramnagar, Sabarmati, Ahmedabad – 380005.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.

... Respondents.

With OA 119/2019

Dhirajlal Bhanuprasad Purani, Son of Bhanuprasad Purani,

Age 60 years, Residing at: B-36, Manokamna Tenaments,

Vatva Road, Isanpur, Ahmedabad – 382 443.

... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With **OA 136/2019**

Girishkumar Chunilal Parekh, Son of Chunilal J Parekh, Age 60 years
Residing at: 163, Mahasukhnagar Society, Krishnangar,
Sahijpur, Ahmedabad – 382 382 345. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With **OA 137/2019**

Kirtikumar J Modi, Son of Jamnadas Modi, Age 59 years
Residing at: A/6, Suraj Baug Society, Nr. Vallabh Park,
'D' Cabin, Ahmedabad – 380 019. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With **OA 138/2019**

Shri Kamlesh C Khatri, Son of Chandrahas Khatri, Age 63 years,
Residing at: A-7, Tithdevbhumi Apartment,
Keshavnagar, Ahmedabad – 380 027. ... Applicant

Versus

- 1 The Union of India, Notice to be served through
The Secretary, Ministry of Communication & IT,
Department of Posts, Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 The Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Ahmedabad Region, Shahibaug, Ahmedabad – 380 004.
- 4 The Director Postal Services (HQ),
Office of the Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001. ... Respondents.

With OA 491/2016

Shri Chimanbhai Ramabhai Parekh, Age 65
S/o Shri Ramabhai Parekh, Retired Sub Postmaster, Boriavi SO,
Resident of at Bhumel, Taluka Nadiad, District Kheda – 387 370. ... Applicant

Versus

1. Union of India, Through the Secretary, Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
2. The Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
3. The Postmaster General, Vadodara Region, Vadodara – 390 002.
4. The Sr.Superintendent of Post Offices, Kheda Division,
Nadiad – 387 001.
...Respondent

With OA 273/2018

Shri Lakhmanbhai Bumtariya, S/o Kanji Bumtariya, Aged:68 years, Male,
OCC-Retired Employee,
Residing at 'Shivam', Vrundavan Nagar – 2, Opp By pass, Madhuram,
Timbavadia, Junagadh – 362 015. ... Applicant.

Versus

1. Union of India, Notice to be served through
The Secretary Ministry of Communication & IT Dept., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
Chief Post Master General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
2. The Postmaster General, Rajkot Region, Rajkot 360 001.
3. The Superintendent of Post Office,
Junagadh – Division, Junagadh 362 001. ...Respondents.

With OA 90/2018

Shri Sureshkumar Balvantrai Pandya
DOB 27-2-1960 Age 58 years, Son of Shri Balvantrai Bhailalbhai Pandya,
Postal Assistant (Retd.), Ahmedabad GPO Ahmedabad – 380 001.
Residing at : 96, Smrutinivas Society, P.D. Pandya College Road, B/h Smruti Mandir,
Ghodasar, P.O. Vatva, Ahmedabad – 382 440 ... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
P.L.I. Building, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001.

...

Respondents

With **OA 121/2018**

Shri Denial William Christian, DOB: 9.1.1952 Age 66 years
Son of Shri Laxmanbhai Christian Postal Assistant (Rtd.) Ahmedabad GPO,
Ahmedabad 380 001. Residing at : C/63, Pavitrakunj Society, CTM Cross Road,
P.O.Amraiwadi, Ahmedabad – 380 026 ... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
Speed Post Bhavan, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001.

... Respondents

With **OA 375/2017**

Shri Kiritbhai Natvarlal Paghadiwala, DOB 13-7-1950 Age 68 years
Son of Shri Natvarlal Paghadiwala, Age 68 years
Sub Postmaster Mugalisara P.O. (Retd.)
Residing at: 5, Kankunagar Society, Adajan Gam, Surat – 395 009. ... Applicant

Versus

The Union of India & Others.

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Vadodara Region,
Vadodara – 390 002.
- 4 Sr. Supdt. of Post-Offices.
Surat Division, Surat – 395 001.

... Respondents

With OA 91/2018

Shri Bismillahmiya Mahemadali Tirmizi, DOB 1-6-1956 Age 62 years
Son of Shri Mahemadali Hussainali Tirmizi, Postal Assistant (Rtd.)
Ahmedabad GPO, Ahmedabad – 380 001,
Residing at : House No.925, Gali No.13, Tokarsha Pole, Haveli Police Line,
Ahmedabad – 380 001.

... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
P.L.I. Building, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001.

... Respondents

With OA 95/2018

Shri Gauravkumar Pragjibhai Patel, DOB 27-9-1959 Age 59 years
Son of Shri Pragjibhai Amarsibhai Patel, Postal Assistant (Retd)
Ahmedabad GPO, Ahmedabad – 380 001.
Residing at : “Minihouse” 1, Jayprada Society, Nr.Vejalpur Bus-Stand,
Vejalpur, Ahmedabad – 380 051

... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
P.L.I Building, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001.

... Respondents

With OA 157/2018

Shri Dineshbhai Dalpatram Pandya, S/o Dalpatram Pandya,
Aged: 68 years, Male, Occ-retired, Residing at Jinapara,
Bhraman Street, Wankaner, Dist –Morbi 363 621.

... Applicant.

Versus

- 1 Union of India, Notice to be served through
The Secretary Ministry of Communication & IT Dept.,
Department of Posts,
Daak Bhavan Sansad Marg, New Delhi – 110 001.

- 2 Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 The Postmaster General, Rajkot Region, Rajkot – 360 001.
- 4 The Superintendent of Post Office, Rajkot Division, Rajkot – 360 001.

... Respondents

With OA 299/2018

Mr. Allarakha Meer, S/o, Bachubhai Meer,
Aged: 68 years, Male, Occ-Retired Postman,
Residing at Lakadiya, Dist-Bhachau 370 145.

... Applicant

Versus

- 1 Union of India, Notice to be served through
The Secretary Ministry of Communication & IT Dept., Department of Posts,
Daak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Post Master General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 Director of Postal Services, O/o the Postmaster General
Rajkot Region, Rajkot – 360 001.
- 4 The Superintendent of Post Office, Kuchch-Division, Bhuj - 370 001.

... Respondents.

With OA 94/2018

Shri Vinubhai Nathanbhai Christian, DOB 2-6-1957 Aged 61 years
Son of Shri Nathanbhai Malubhai Christian, Postal Assistant (Rtd.)
Ahmedabad – GPO, Ahmedabad – 380 001.
Residing at : 1, Prakruti Apartments, Nr. Democratic High School
Maninagar (East), Ahmedabad – 380 008

... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
P.L.I. Building, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001.

... Respondents

With OA No.209/2018

Shri Muldas Narsidas Solanki, DOB 27-7-1954 Age 64 years
Son of Shri Narsidas Bavdas Solanki, Postal Assistant (Rtd.)
Ahmedabad GPO, Ahmedabad – 380 001.
Residing at: Narsinagar, Nr. Swastik Char Rasta
Amaraiwadi, Ahmedabad – 380 026.

... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
Speed Post Bhavan, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001. ... Respondents

With OA 96/2018

Shri Vinodkumar Dalpatram Merai, DOB 15-10-1954 Age 62 years
Son of Shri Dalpatram Ichchharam Merai, Postal Assistant (Rtd.)
Ahmedabad - GPO, Ahmedabad – 380 001
Residing at :3/C/15, Vivekandnagar, Hathijan,Ahmedabad – 382 445 ... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
P.L.I. Building, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.Ahmedabad 380 001 ... Respondents

With OA 120/2018

Shri Michael Khushalbhai Parmar, DOB 20-01-1953 Age 65 years,
Son of Shri Khushalbhai Hirabhai Parmar, Postal Assistant (Rtd.)
Ahmedabad GPO,, Ahmedabad – 380 001, Residing at : B-9,
Bethelkrupa Society, B/h Dhiraj Housing, Maninagar (East),
Ahmedabad – 380 008 ... Applicant

Versus

- 1 The Union of India & Others Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
Speed Post Bhavan, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001. ... Respondents

With OA 92/2018

Shri Paskarbhai Naranbhai Makwana
DOB 1-7-1949 Age 69 years

Son of Shri Naranbhai Ranchhodbhai Makwana Postal Assistant (Rtd.)
 Ahmedabad – GPO Ahmedabad – 380 001.
 Residing at :B-18, Bethalkrupa Society, B/hHaripura Housing, Nr.Hatkeshwar,
 Maninagar (East), Ahmedabad – 380 008 ... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
 Ministry of Communication & I.T., Department of Posts,
 Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
 Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
 P.L.I. Building, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
 Ahmedabad 380 001. ... Respondents

With **OA 93/2018**

Shri Jayesh Vidyashankar Mehta, DOB 28-01-1960 Age 58 years
 Son of Shri Vidyashankar Vaghjibhai Mehta
 Postal Assistant GPO, Ahmedabad – 380 001
 Residing at : 102, Akruti Apartments, Nehrupark, Vastrapur,
 Ahmedabad – 380 015 ... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
 Ministry of Communication & I.T., Department of Posts,
 Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
 Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
 P.L.I. Building, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
 Ahmedabad 380 001. ... Respondents

With **OA 282/2018**

Shri Prabhudas Gohel, S/o Jadavji Gohel
 Aged:70 years, Male, Occ-Retired Employee,
 Residing at Dabhor road, Near Vithalwada,
 Khodinar Mandir street, Veraval – 362 266 ... Applicant

Versus

- 1 Union of India, Notice to be served through
 The Secretary Ministry of Communication & IT Dept., Department of Posts,
 Daak Bhavan,Sansad Marg, New Delhi – 110 001.
- 2 Chief Post Master General,
 Gujarat Circle, Khanpur, Ahmedabad – 380 001.

- 3 The Postmaster General, Rajkot Region, Rajkot – 360 001.
- 4 The Superintendent of Post Office, Junagadh-Division, Junagarh-362001.

... Respondents.

With OA 208/2018

Shri Pravinkumar Mafatlal Vania, DOB 16-9-1955 Age 63 years
 Son of Shri Mafatlal Laxmichand Vania, Postal Assistant (Rtd.),
 Ahmedabad GPO, Ahmedabad 380 001
 Residing at : C-28, Abhay Residency, Nr.Sahyog Society,
 B/h Visat Mata Temple, Chandkheda
 Ahmedabad 382 424

... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
 Ministry of Communication & I.T., Department of Posts,
 Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
 Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
 Speed Post Bhavan, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
 Ahmedabad 380 001

... Respondents

With OA 503/2017

Shri Prakashchandra Chhanalal Bhavasar, DOB 3-4-1955 Age 62 years
 Son of Shri Chhanalal Manilal Bhavasar , Postal Assistant (Rtd.)
 Viramgam Mukhya Dak Ghar (MDG) Dist.Ahmedabad – 382 250,
 Residing at: A-23, Prathna Bunglows, Opp.Dr.Ambedkar Hall,
 Saraspur, Ahmedabad – 380 018.

... Applicant

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
 Ministry of Communication & I.T., Department of Posts,
 Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
 Ahmedabad – 380 001.
- 3 Director Postal Services (HQ), Ahmedabad Region,
 O/o. The Chief Postmaster General, Gujarat Circle,
 Ahmedabad – 380 001.
- 4 Chief Postmaster, Ahmedabad G.P.O., Ahmedabad 380 001.
- 5 Sr. Supdt. of Post-Offices, Gandhinagar Division,
 Gandhinagar – 380 001.

... Respondents

With OA 167/2018

Shri Jayantilal Dahyalal Brahmbhatt, DOB 1-10-1950 Age 68 years
 Son of Shri Dahyalal Inshwarbhai Brahmbhatt, Postal Assistant (Rtd.)

Ahmedabad GPO, Ahmedabad – 380 001

Residing at :T/4. Shiv Paras Appartment, Gordhan Park Society,
Nr.Hare Krishna Society, B/hHoliday Express Hotel, Juna Vadaj,
Ahmedabad – 380 013

... Applicant.

Versus

The Union of India & Others

- 1 Secretary to the Govt. of India,
Ministry of Communication & I.T., Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi – 110 001.
- 2 Chief Postmaster General, Gujarat Circle, Khanpur,
Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region,
Speed Post Bhavan, Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad G.P.O.,
Ahmedabad 380 001.

With **OA 122/2018**

Shri Keshavlal Kalidas Parmar, DOB 1-6-1952 Age 66 years

Son of Shri Kalidas Nathabhai Parmar L.S.G. Supervisor (Rtd.)

Ahmedabad GPO, Ahmedabad – 380 001

Residing at :96, Gayatrinagar, B/h Baliadev Temple,
Sarkhej – 382 210, Dist.Ahmedabad

... Ahmedabad

Versus

- 1 The Union of India & Others, Notice to be served through
The Secretary, Ministry of Communication & IT Dept., Department of Posts,
Daak Bhavan,Sansad Marg, New Delhi – 110 001.
- 2 Chief Post Master General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
- 3 Postmaster General, Ahmedabad H.Q. Region, Speed Post Bhavan
Shahibag, Ahmedabad – 380 004.
- 4 Chief Postmaster, Ahmedabad GPO,
Ahmedabad 380 001.

... Respondents.

With **OA 97/2018**

Shri Revabhai Takhabhai Makwana, DOB 1-9-1951 Age 67 years

Son of Shri Takhbhai Bhataji Makwana, Postal Assistant (Rtd.)

Ahmedabad GPO, Ahmedabad 380 001,

Residing at: Jakhora, P.O.Sadra via Dabhoda 382 320
Dist.Gandhinagar

... Applicant

Versus

1. Union of India, Notice to be served through
The Secretary Ministry of Communication & IT Dept., Department of Posts,
Daak Bhavan,Sansad Marg, New Delhi – 110 001.
2. Chief Post Master General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
3. Postmaster General, Ahmedabad H.Q.Region, PLI Building,
Shahibag, Ahmedabad 380 004,
4. Chief Postmaster, Ahmedabad GPO,
Ahmedabad – 380 001.

... Respondents.

With OA No.119/2018

Shri Soloman Hathibhai Christian, DOB 1-6-1954 Age 64 years
 Son of Shri Hathibhai Somabhai Christian, Postal Assistant (Retd.)
 Ahmedabad GPO, Ahmedabad – 380 001,
 Residing at :C/45, Pavitrakunj Society, CTM Cross Road,
 P.O.Amrainwadi, Ahmedabad – 380 026

... Applicant

Versus

1. Union of India, Notice to be served through
 The Secretary Ministry of Communication & IT Dept., Department of Posts,
 Daak Bhavan, Sansad Marg, New Delhi – 110 001.
2. Chief Post Master General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
3. Postmaster General, Ahmedabad H.Q. Region, Speed Post Bhavan,
 Shahibag, Ahmedabad 380 004.
4. Chief Postmaster, Ahmedabad GPO,
 Ahmedabad – 380 001

... Respondents.

With OA 86/2018

Pravinbhai Dhamal, S/o. Muljibhai Dhamal, Aged: 63 years,
 Male, Occ-Service, Residing at "Maharshi", Block No.C/16,
 Kothariya Main Road, Kuwadi Sheri, Rajkot – 360 002.

... Applicant

Versus

1. Union of India, Notice to be served through The Secretary
 Ministry of Communication & IT Dept., Department of Posts,
 Daak Bhavan, Sansad Marg, New Delhi – 110 001.
2. Chief Post Master General, Gujarat Circle, Khanpur, Ahmedabad – 380 001.
3. The Postmaster General, Rajkot Region, Rajkot – 360 001.
4. The Superintendent of Post Office, Rajkot-Division, Rajkot-360 001.

... Respondents.

Present :

**For Applicants : By Advocate(s) : Mr. A.D.Vankar,
 Mr. Joy Mathew &
 Ms. Vilas Purani.**

For Respondents : By Advocate : Ms R. R. Patel

(ORDER)

Per : Shri M C Verma, Judicial Member

1. Grievances of applicants of some OAs of this set are that TBOP/ BCR/ MACP granted earlier to them has been cancelled and adjusted as set off treating the post of Postal Assistant as promotion post of Postman whereas grievances of applicants of

rest OAs of this set are that treating the post of Postal Assistant as promotion post of Postman they were not granted their due MACP. It is the contention of each applicants of this set of 52 OAs that the post of Postal Assistant is not a promotional post for the post of Postman whereas the stand of respondents is that it is a promotional post and that entry from Postman cadre to Postal Assistant has rightly been adjusted and set off against TBOP / BCR/MACP.

2. As the outcome of all OA of this set would be a direct sequetur of the controversy, namely '**whether the post of Postal Assistant is a promotional post for the post of Postman**', hence all these OAs were heard together and a common Order is being passed. As far as factual aspect qua joining of post of Post Man or of Postal Assistant etc. relates, the same are undisputed.

3. A note of written arguments signed by Sh. A.D. Vanker Advocate , who is appearing for applicants of 17 OAs (O.A. Nos. 375/2017, 503/2017 90 to 97, 119 to 122, 167, 208, 209 of 2018), by Sh. Joy Mathew Advocate, who is appearing for applicant of thirty OAs (OA Nos. 491 of 2016, 93 to 116, 118, 119, 136 to 138 of 2019) and by Ms. Vilas Purani, Advocate, who is appearing for applicants of five OAs (O.A. No. 86, 157, 273, 282 and 299/2018) have been submitted. In addition to said Joint Note of written arguments learned counsel Sh. A.D. Vankar has also placed on record an another written note of submissions and has placed reliance on pleas taken therein also.

4. Learned counsel Shri Vanker orally has submitted that entry from cadre of Postman to Postal Assistant is by way of selection and applicants did pass Limited Departmental Competitive Examination (LDCE) and therefore it is not a promotion. He urged that under MACP Scheme, for grant of MACP, entry from cadre of Postman to Postal Assistant was required to be ignored. He, to fortify his submission placed reliance upon the judgment of Hon'ble Madras High Court passed in Writ Petition No. **30629/2014 and** added that decision passed in said Writ Petition was also impugned on the file of Hon'ble Supreme Court and Hon'ble Supreme Court has dismissed the SLP. He explaining factual data's, submitted that the applicants were recruited against

50% quota reserved for departmental candidates for this LDCE Examination for the post of Postal Assistant and they were entitled for grant of Grade Pay of Rs. 2800/-, Rs. 4200/- and Rs. 4600/- on eve grant of 1st, 2nd and 3rd MACP respectively and, therefore grant of Grade Pay only of Rs. 4200/- for 3rd MACP to them is discriminatory and against the Rules.

5. Learned Counsel Sh. Joy Mathew adopting the submissions of Mr. Vanker Advocate that entry from cadre of Postman to Postal Assistant by way of passing LDCE is not a promotion post, has also urged that there is no promotion avenue in the cadre of Postman and that Postman is not the feeder cadre of the post of Postal Assistant. That the selection of Postal Assistant is not made from feeder category of Postman alone and several other categories of employees are also eligible to appear in said Limited Departmental Competitive Examination (LDCE). He also argued that the post of Postal Assistant is an ex cadre post of Postman and, therefore, selection is not in the hierarchy line of Postman and thus cannot be said to be a promotion in the eye of law. He, placing reliance on judgment of Hon'ble Supreme Court titled **Director General, Rice Research Institute, Cuttack & Anr. Vs. Khetra Mohan Das** [1994 (5) SLR 728] contended that promotion is different from fitment by way of rationalisation and initial adjustment and that the promotion means, appointment of a person of any category or grade of a service or a class of service to a higher category or grade or such service or class. He also stressed that several coordinate Benches of this Tribunal as well some High Courts have held that post of Postal Assistant is not a promotional post for the post of Postman.

6. Learned counsel Ms. Vilas Purani while adopting the submissions made at Bar by learned counsel Sh. A.D.Vankar Advocate and by learned counsel Sh. Joy Mathew Advocate has added that in identical matters, both on facts and on law, the coordinate Benches and some High Courts have taken the view that entry from cadre of Postman to Postal Assistant by way of passing LDCE is not a promotion. She referred decision dated 22.05.2012 passed by Hon'ble High Court of Rajasthan in case titled - *Union of India and Ors. Vs. Bhanwar Lal Regar* in Writ Petition No. 11336/2012, decision dated

04.02.2015 passed by Hon'ble High Court of Madras in *UOI Vs D. Sivakumar* in Writ Petition No. 30629/2014, judgment of Bangalore Bench of the Tribunal passed in case titled *P.G. Mathad Vs. Department of Posts* in OA No. 952/2016 and urged that contrary view would not be legal.

7. Learned counsel Ms. R.R. Patel appearing for respondents in all the OAs has also placed on record written arguments and she orally urged that prescribed criteria for educational qualification and age as condition precedent is there for direct recruitment to the post of Postal Assistant / Sorting Assistant but as far as 50% quota of said posts, which is filled up by promotion relates, there is no educational qualification or age criteria and every postal employees in Group 'D', Postman and the Mail Guards who do full-fill the criteria of length of service in regular cadre can appear in the examination and on successful clearance of LDCE they are promoted to the post of Postal Assistant. She also submitted that for direct fresh recruits, there is a separate system of selection, but for promotion from the cadre of Postman and from other Group D posts, a competitive LDCE test is held.

That if a direct recruited candidate appointed to the post of Postal Assistant fails to complete the probation successfully, he has to be sent back whereas in case of candidates appointed from the cadre of Postman or from other Group 'D' posts fails to complete the probation successfully then in that case, he has to be reverted back to his original post. She referred the Rules regarding recruitment of Postal Assistant and Postman and that order impugned are just and proper and that treating the post of Postal Assistant as promotion post, applicants have rightly been denied the benefit of MACP.

She concluded that the question of law; whether joining as Postal Assistant from the post of postman is in nature of promotion is still res integra. She explained that mere dismissal of SLP is not the approval of law laid down by High Court and as far present controversy relates, the order passed by the Hon'ble High Court of Madras was challenged before Hon'ble Supreme Court in SLP (C) No. 4848/2016 and though

Hon'ble Supreme Court has dismissed the SLP, however while dismissing SLP, the question of law was kept open.

8. We have considered the rival submissions and have perused the records of each case carefully. Before we shall advert to the question "Whether the post of Postal Assistant is a promotional post of Postman?", we would firstly take note of decisions relied upon by the parties or having bearing upon the issue.

9. The question that has been raised in set of these OAs has previously arisen before the Jodhpur Bench of the Tribunal in OA No. 382/2011 & a batch, in case titled *Bhanwar Lal Regar Vs. UOI & Ors* and the Jodhpur Bench of the Tribunal in its decision dated 22.05.2012 passed in said OA, laid down that applicants have faced the LDCE to become Postal Assistant and, therefore, their joining as Postal Assistant was not in nature of promotion in earlier existing service or cadre but was career advancement through the process of selection. Applicant before Jodhpur Bench of the Tribunal in said OA No. 382/2011 was recruited on 15.01.1978, as a Group 'D' employee, was promoted/appointed thereafter on 19.08.1978 to the post of Postman, and after passing the LDCE was appointed, on 15.01.1990 as Postal Assistant. He was granted TBOP on 05.02.2006 and MACP-II on 16.02.2010 but later on, on 26.05.2011 said benefit of financial up-gradation, given on 16.02.2010 under MACP was withdrawn stating that first promotion was from category D to Postman, second promotion was from Postman to Postal Assistant and therefore TBOP was the 3rd financial upgradation. Para **16** to **19** of decision of Hon'ble Jodhpur Bench are relevant and are reproduced here-in-below:-

"16. It is obvious that appointment from the civil post of EDA to a regular Government employment as Group-D is a fresh appointment and that has not been disputed by the respondents either. Thereafter when, as Group-D employees, these three applicants faced a process of selection, and were appointed as Postmen, such selection cannot be called a promotion, as it was not done in the course of natural progression through seniority. Any advancement in career which is based on a process of selection especially undertaken for that purpose cannot be called as a promotion. A promotion has to be in higher category in the same cadre, or service, or through a prescribed avenue of promotion, but without an element of a process of selection, through tests or examinations etc.

17. The meaning of the word “promotion” was considered by the Hon'ble Apex Court in the case of *Director General, Rice Research Institute, Cuttack & Anr. V Khetra Mohan Das*, 1994 (5) SLR 728, and it was held as follows:-

“A promotion is different from fitment by way of rationalization and initial adjustment. Promotion as a generally understood; means; the appointment of a person of any category or grade of a service or a class of service to a higher category or Grade or such service or class. In *C. C. Padnjanabhan V. Director of Public Instructions*, 1980 (Supp) SCC 668; (AIR 1981 SC 64) this Court observed that “Promotion” as understood in ordinary parlance and also as a term frequently used in cases involving service laws means that a person already holding a position would have a promotion if he is appointed to another post which satisfies either of the two conditions namely that the new post is in a higher category of the same service or that the new post carries higher grade in the same service or class.

18. Further in the case of *State of Rajasthan v. Fatehchand Soni*, (1996) 1 SCC 562, at p.567; 1995(7) Scale 168; 1995 (9)JT 523; 1996 SCC (L&S) 340; 1996 (1)SLR 1, the Hon'ble Apex Court findings can be paraphrased and summarized as follows:-

“In the literal sense the word ‘promotes means’ to advise to a higher position, grade, or honour. So also ‘promotion’ means “Advancement or preferment in honour, dignity, rank or grade”. (See: Webster's Comprehensive Dictionary, International Edn., P 1009) ‘Promotion’ thus not only covers advancement to higher position or rank but also implies advancement to a higher grade. In service law also the expression ‘promotion’ has been understood in the wider sense and it has been held that “promotion can be either to a higher pay scale or to a higher post”.

19. In a similar manner, while being Postmen, the three applicants in these three OAs faced the Limited Departmental Competitive Examination (LDCE in short) and qualified to become Postal Assistants. Their joining as Postal Assistants was not in the nature of promotion in their earlier existing service or cadre, but was a career advancement though a process of selection. Therefore, for the purpose of grant of TBOP/BCR financial upgradations earlier, and ACP financial upgradation now, the only dates which are relevant to be taken into account for the purpose of counting the periods of their stagnation is the period spent by the applicants as Postal Assistant. In that sense, the clarification issued by the Pay Commission Cell of the Department of Posts, Ministry of Commissions & IT on 25.04.2011 through file no. 4-7/MACPS/2009/PCC, as cited in para 8 above, is correct. The only problem with that clarification is that it stopped at the point of clarifying that when the GDS first joined in a Group-D post, and was later declared as successful in the Postman examination, the regular service for the purpose of MACP would be deemed to commence from the date of his joining as a Postman in the main cadre on direct recruit basis. But it is obvious that the corollary would follow, and when the Postman appears at the LDCE, and gets selected to a new Cadre as a Postal Assistant, then it is start of a new innings for him, and for the purpose of counting his stagnation, if any, the date of his joining as Postal Assistant alone would be relevant, and his previous career advancements cannot be called to be promotions within the definition of the word ‘promotion’, as is required for the grant of TBOP/BCR benefit consideration, and

for consideration for eligibility for financial upgradation on account of stagnation under the MACP Scheme.”

9.1. The decision of Jodhpur Bench of the Tribunal was impugned by the respondents of the OA, in **CWP 11336/2012** before Hon’ble High Court of Rajasthan and the Hon’ble High Court having held that the respondent (applicant of OA) faced an examination, may that be a limited competitive examination, i.e. nothing but direct recruitment and their joining as Postal Assistants was not at all in the nature of promotion, dismissed the Writ Petition. Their Lordships observed as under:-

“Having considered the argument advanced we do not find any merit with the same. Learned counsel appearing on behalf of the appellant on asking again and again failed to point out any provision for promotion to the post of Postman/ Sorting Assistant. On the other hand, from perusal of the orders of appointment to the post of Postal Assistant/ Sorting Assistant, it is apparent that the respondent original applicants faced an examination, may that be a limited competitive examination, i.e. nothing but direct recruitment. Their joining as Postal Assistants was not at all in the nature of promotion, hence their services for the grant of benefits under modified assured career progression has to be counted only from the date they were appointed as Postal Assistants/Sorting Assistants. The services rendered by them on earlier post prior to their appointment as Postal Assistants/Sorting Assistants are absolutely inconsequential for the purpose of grant of modified assured career progression. At the cost of repetition it shall be appropriate to mention that the petitioners failed to point out any provision for appointment to the post of Postal Assistant/Sorting Assistant by way of promotion and to point out any order of appointment making appointment of the original applicants on the post concerned by way of promotion.

The writ petitions, thus, are having no merit, hence dismissed. The orders passed by the Central Administrative Tribunal, Jodhpur Bench, Jodhpur in respective original applications stand affirmed.”

9.2. The matter did not rest herein, the U.O.I. impugned the judgment passed by Hon’ble High Court of Jodhpur on the file of Hon’ble Supreme Court but Special Leave Petition (Civil) Diary No. 23260/2018 preferred by the Union of India was dismissed in limine, vide order dated 10.08.2015.

10. In year 2011 the issue “*whether the appointment of the applicant to the post of Postal Assistant is to be treated by way of promotion or direct recruitment*”, was also posed before Principal Bench of this Tribunal in OA No. 3756/2011 and the Principal Bench of this Tribunal, observing that if relevant Recruitment Rules provides for filling

up of the vacancies in the promotional quota from amongst more than one category, held that the same may be treated as direct recruitment. Paras **8** and **11** of aforesaid decision of Principal Bench, having relevancy are reproduced herein below:-

"8. Apparently, it is not so that the incumbents of only one feeder category are eligible to participate in the test for promotion to the post in question. Ex facie, all the permanent or quasi-permanent officials below the time-scale clerical and sorters grade are eligible to participate in the test for the post in issue in the present Original Application, thus the appointment of applicant to the post of Postal Assistant made in the year 1976 has to be treated as direct recruitment and he should be given the benefit of Modified Assured Career Progression Scheme (MACP) accordingly.

11. In view of the aforementioned, the respondents are directed to treat the appointment of the applicant as Postal Assistant w.e.f. 02.11.1976 as direct recruitment and give him benefit of MACP/ACP Scheme accordingly. It goes without saying that while giving the benefit of financial upgradation to the applicant in accordance with the aforementioned view, they will make the calculation of the benefits payable to him and would refund any such amount recovered from the applicant on the ground that his appointment to the post of Postal Assistant in 1976 was promotion and not direct recruitment. Needful may be done within three months from the date of receipt of a copy of this Order."

11. We also find that almost similar matter was considered by Hon'ble High Court of Delhi in W.P.(C) 4131/2014 in the case of *Union of India and Ors Vs. Shakeel Ahmad Burney*. While upholding the order of the Principal Bench of this Tribunal the Hon'ble High Court of Delhi, in its order dated 05.08.2014 observed as under :-

"There is no magic in the use of the expression "Promotion" or "Direct Recruitment"; whether, in fact, the mode of entry to the service is through direct recruitment or promotion would certainly be dependent on facts of each case and the structure of the Rules. If one analyzes Rule 3, it would be OA.No.170/ 00853/ 2016/CAT/Bangalore Bench apparent that recruitment is through "a competitive examination which will be open" to both departmental candidates and outside candidates. During the course of submissions, the Union of India has emphasized that syllabus for departmental candidates was prescribed in 1964; even this fact nowhere indicates that a differential treatment is accorded to direct recruits who are drawn from the open market. The absence of any clearly stipulated and defined feeder post for promotion by way of seniority, or any other known method like seniority-cum-merit, selection etc., the mode prescribed in Rule 3 (a) (i.e., departmental candidates also having to qualify in the competitive examination, along with outsiders) in this Court's opinion clinches the matter. To that effect, the CAT's decision that the entry of departmental candidates to the cadre of Postal Assistant is by way of direct recruitment is unexceptionable. We consequently affirm the findings of the CAT in the impugned order."

12. Madras Bench of this Tribunal also, in its decision dated 14.3.2013 passed in OA No. 1088/2011 while following the order passed by the Jodhpur Bench hold that :-

“As we have already stated that the orders of the Jodhpur Bench will apply to the case of the applicant herein, the OA is to be allowed as prayed for the applicant. Accordingly, we allow the OA by setting aside the impugned order dated 28.9.2010...”

The order passed by the Madras Bench was impugned on the file of Hon'ble Madras High Court in Writ Petition No. 30629/2014 and Hon'ble Madras High Court vide its decision dated 04.02.2015 dismissed the Writ Petition holding that to adjust the appointment of the first respondent to the Postal Assistant against Modified Assured Career Progression-II, is erroneous. The relevant paras 9 and 10 of decision of Hon'ble Madras High Court are reproduced hereinbelow:-

“9. What the Department had done is to adjust the appointment of the first respondent as the Postal Assistant on 12.11.1977, as the first financial upgradation under Modified Assured Career Progression-I. This is clearly erroneous in view of the fact that the appointment as Postal Assistant was not granted to the first respondent after mere completion of 10 years in the Cadre of Postman. From the Cadre of Postman, to which, the first respondent got appointed on 22.9.1973, he participated in a selection to the post of Postal Assistant and got appointed. Therefore, to adjust the said appointment against Modified Assured Career Progression-II, is clearly erroneous. Once that error is removed, it will be clear that the first respondent would be entitled to three modified assured career progressions for every ten years. Hence, we are of the opinion that the Tribunal was right in directing the Department not to take into account the appointment granted to the post of Postal Assistant and to adjust it against Modified Assured Career Progression-I.

10. Moreover, it is to be pointed out that even the second modified assured career progression was granted under the Modified Assured Career Progression Scheme only after 16 years and the third is said to have been granted after 26 years. If the first appointment is adjusted against Modified Assured Career Progression-I, this could not have actually happened. For doing so, the Department has counted the first appointment as 12.11.1977. Therefore, they cannot do so for the Modified Assured Career Progression Scheme in a different manner”.

13. The order passed by the Hon'ble High Court of Madras, in aforesaid SCA was impugned before Hon'ble the Supreme Court, in SLP (C) No. 4848/2016 but it was also dismissed in limine, however, the question of law was kept open. The Order dated 16.08.2016 passed by Hon'ble the Supreme Court in **SLPI (C) No. 4848/2016** reads:-

*“We see no reason to entertain this petition under Article 136 of the Constitution of India. The special leave petition is, accordingly, dismissed. **However, the question of law is kept open.**”*

14. As far as Hon'ble High Court of State, having territorial jurisdiction over this Bench of the Tribunal, i.e. Hon'ble High Court of Gujarat relates, some decisions of this Bench of the Tribunal wherein the Tribunal has taken the view that post of Postal Assistant is a promotional post of Postman/Mail Guard, were impugned before Hon'ble High Court of Gujarat, in SCA No. 22652/2017 and a batch. Hon'ble High Court of Gujarat set aside the Order passed by the Tribunal and directed the respondents to reconsider the issue of MACP of applicants of OA in the light of judgment passed by Hon'ble High Court of Madras, in aforesaid SCA.

15. Recently Ernakulam Bench of the Tribunal, in its decision dated 29.05.2019 delivered in case, titled **A. M. Jayarajan Vs. UOI & Ors.** in OA No. 967/2017 held that the rules of promotion is quite different as the basic criteria is seniority-cum-fitness in order to get the promotion and only the employees from the feeder category is eligible who comes under the consideration zone so fixed by the DPC but this is absent in the case of appointment to the Sorting Assistant from the Limited Departmental Competitive Examination quota as it is only by way of merit alone. The Bench did not accept respondents' contention that since applicant is coming through 50% LDCE quota so the appointment to the post should be treated as promotion post assigning reason that the selection is made not from feeder category alone but on the basis of seniority and several other categories of employees are also eligible to appear in the said examination who are not at all in the feeder categories and further selection would be on the basis of percentage of marks alone.

16. It is the contention of learned Counsel for respondents that since inception past practice consistently is of treating Postal Assistant from the post of postman in nature of promotion and it also is settled law that while interpreting a Recruitment Rule a past practice consistently followed by the department needs to be kept in view by the Court,

and that the issue is still *res integra* and if the matter is analysed in its entirety a different view, that joining as Postal Assistant from the post of postman is in nature of promotion could be there. She has contended that the judgment, reference of whom has come *ibid*, are accidental and *per incurium*. She has referred the Rules regarding recruitment of Postal Assistant and has urged that prescribed criteria for educational qualification and age as condition precedent is prescribed for direct recruitment to the post of Postal Assistant / Sorting Assistant but as far as 50% quota of said posts is concerned, which is filled up by LDCE promotion relates, there is no educational qualification or age criteria. She also has contended that for direct recruits there is a separate system of selection however some judgments are based upon premises that one common test is held for direct recruits as well as for the persons appointed from the cadre of the Postman but factually the situation is not as has been observed and added that though there is different procedure is provided by Rules for candidates who fails to pass confirmation examination, after appointment, but no note of it was taken in those judgments.

We did find some substance in the submission of learned counsel. Though various High Courts have held that that Postal Assistant from the post of postman is in nature of promotion but the Order dated 16.08.2016 passed by Hon'ble Supreme Court in SLPI (C) No. 4848/2016, preferred against the order passed by the Hon'ble High Court of Madras wherein Hon'ble High Court of Madras has held that it is a not a promotional post, shows that Hon'ble Supreme Court having seen no reason to entertain that petition under Article 136 of the Constitution of India though dismissed the SLP in limine however, the question of law was kept open by Hon'ble Supreme Court.

It can thus be said that the issue that Postal Assistant from the post of postman is in nature of promotion or not, cannot yet be said to have attained finality nor it can be said as not *res integra*. It is the contention of respondent that the decisions, reference of whom has come *ibid*, are accidental and *per incurium*.

17. The Rules, regarding recruitment of Postal Assistant, prescribes criteria for educational qualification as well as age, as a condition precedent for direct fresh recruitment to the post of Postal Assistant / Sorting Assistant but as far as 50% quota of said posts, which is filled up by promotion on the basis of LDCE relates, there is no educational qualification or age criteria prescribed. There is no common test for outsider fresh recruits and the persons appointed from the cadre of the Postman and rather for direct fresh recruits there is provision for written test and the persons appointed from the cadre of the Postman have to qualify the LDCE written test.

Consequence relating to for outsider fresh recruits and the persons appointed from the cadre of the Postman who failed to pass the confirmation test is also different. Rules for Recruitment for Recruitment to the Post of Time Scale Clerks and Sorters in Indian Posts and Telegraph Department 1971, which were in force at the time of appointment to applicants to the post of Postal Assistant, provides that the period of Probation would be of four years or of passing of the confirmation examination whichever is earlier. The note attached shows that :- In the case of direct recruits, failure to pass the confirmation examination in six chances within four years result in their discharge from service while in the case of departmental candidates they will be reverted to their former lower post. The Rules for Recruitment to the Post of Time Scale Clerks and Sorters in Indian Posts and Telegraph Department 2002 provides that the period of Probation would be of two years or of passing of the confirmation examination specified in the Director General Posts and Telegraph Letter No. 63-56/67- SPB-1 dated 21st June 73, whichever is earlier. The note attached thereto shows that :- In case a direct recruits fails to pass the confirmation examination in four chances within two years, the probation period will be extended to a maximum period of four years , within which he shall be allowed two additional chances of normal confirmation examination and/or two special chances and failure to do so entail stoppage of increments or confirmation or both and in case of recruitment by promotion or deputation or absorption, grade from which promotion or deputation or absorption to

be made. It is the contention of respondent that the decisions, reference of whom has come *ibid* are accidental and *per incurium*.

18. It is true that all these aspects in pith and substance were not pressed for in said cases; the reference of whose judgment has come *ibid* and therefore it is the contention of respondent that the decisions *ibid* are accidental and *per incurium*. The matter thus if is analysed in its entirety, there may be possibility of a different view, that joining as Postal Assistant from the post of postman is in nature of promotion. A decision, which is express and is found on reasons and which proceeds on consideration of issue, can only be deemed to be law declared and it will have a binding effect. The issue evolved in all said decisions obviously was whether Postal Assistant from the post of postman is in nature of promotion and therefore the decisions can't be said to be accidental.

19. Consistency in interpretation of law alone, can lead to public confidence in our judicial system. Hon'ble Supreme Court time and again has laid down that deviation from the same should be only on a procedure known to law. 'Incuria' literally means 'carelessness'. In practice *per incurium* appears to mean *per ignoratium*, in *ignoratium* of a statute or other binding authority. Principle of *per incurium* is in relaxation of the rule of *stare decisis*. Rule of *sub-silento* is also an exception to the rule of *precedents*. A decision passed *sub-silento*, in the technical sense that has to be attached that phrase, when the particular point of law involved in the decision is not perceived by the court or present to its mind.

20. It is true that all these aspects in entirety were not pressed for in relied upon cases, the reference of whose judgment has come *ibid*. This is illustrated by judgment of Hon'ble High Court of Rajasthan passed in CWP 11336/2012, which was cited as precedent almost in every succeeding decision. Needless to say, their Lordship in CWP 11336/2012 categorically have observed in the judgment that, "***Learned counsel appearing on behalf of the appellant on asking again and again failed to point out any provision for promotion to the post of Postman/ Sorting Assistant.***"

Does principle of per incurium extend and apply to a conclusion of law, which was neither raised nor preceded by any consideration.

21. Ld. Counsel for respondents has urged to analyse the true import of Rule which, according to her, it would yield to conclusion that joining as Postal Assistant from the post of postman is in nature of promotion but the question, at threshold is whether the judgments, reference of whom has come *ibid*, are not an authority for the proposition canvassed by the applicants and whether this Tribunal needs to analyse the Rules in their entirety to exhaust and to see the possibility of a different view.

Once the entire import of Rule be considered, possibility of contrary view may or may not be there, but the question before this Tribunal is whether after aforesaid pronouncement by Hon'ble High Court and the coordinate Benches, is it still within the ambit of this Tribunal to reopen the question in this proceedings and to take the view, inconsistent with the law laid down by Hon'ble High Court and of Larger Bench of this Tribunal, because of the only reasons that some aspects have not been put forward for their consideration in those judgments.

22. It is trite-law that subordinate court is bound by the enunciation of law made by the superior court. Hon'ble High Courts undoubtedly are superior courts of the Tribunal. It is hardly necessary to emphasise that considerations of judicial propriety and decorum require that healthy principles of judicial decorum and propriety warrants this Tribunal to follow the *ratio decendi* propounded by the High Court, in proper and traditional way and that deviation from the same should be only on a procedure known to law. Said principles illustrates from following decisions of Hon'ble Supreme court as well coordinate bench of the Tribunal.

23. Hon'ble Supreme Court in the case of *Lala Shri Bhagwan and Anr, v. Shri Ram Chand and Anr* 1965 SC 1767 laid down: "*It is hardly necessary to emphasis that considerations of judicial propriety and decorum require that if a learned single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a single Judge, need to be re- considered, he should not embark upon that enquiry sitting as a single Judge, but should refer the matter to a*

Division Bench, or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety."

In another case, namely *Tribhuvandas Purshottamdas Thakar v. Ratilal Motilal Patel*, [1968] 1 SCR 455 Hon'ble Supreme Court while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same court observed :-

"The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J., in Pinjare Karimbhai's case and of Macleod, C.J., in Haridas `s case did not lay down the correct Law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by Courts of coordinate authority or of superior authority."

24. In *S.I. Rooplal and Anr. Vs. Lt. Governor* AIR 2000 SC 594 Hon'ble Supreme Court held that a coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench and it can only refer it to a larger Bench, if it disagrees with the earlier pronouncement. Expressing dissatisfaction in regard to the manner in which a coordinate bench of the Tribunal has overruled, in effect, an earlier judgment of another coordinate bench, Hon'ble Supreme Court observed in para 12:-

"12. At the outset, we must express our serious dissatisfaction in regard to the manner in which a Coordinate Bench of the tribunal has overruled, in effect, an earlier judgment of another Coordinate Bench of the same tribunal. This is opposed to all principles of judicial discipline. If at all, the subsequent Bench of the tribunal was of the opinion that the earlier view taken by the Coordinate Bench of the same tribunal as incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two Coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the judgment of the earlier Bench but knowingly it proceeded to disagree with the said judgment against all known rules of precedents....."

While expressing dissatisfaction in abovesaid words Hon'ble the Supreme Court in para 13 held as under:-

“13. We are indeed sorry to note the attitude of the tribunal in this case which, after noticing the earlier judgment of a coordinate Bench and after noticing the judgment of this Court, has still thought it fit to proceed to take a view totally contrary to the view taken in the earlier judgment thereby creating a judicial uncertainty in regard to the declaration of law involved in this case. Because of this approach of the latter Bench of the tribunal in this case, a lot of valuable time of the Court is wasted and parties to this case have been put to considerable hardship.”

25 As noted above, Hon’ble Supreme Court in SLPI (C) No. 4848/2016 has kept the question of law open, so the control to analyse the Rules in their entirety, to see possibility of a different view qua the issue whether joining as Postal Assistant from the post of postman, is in nature of promotion or otherwise, thus only vested either in Hon’ble Supreme Court or in larger bench of the High Court. Therefore, when it is not in the domain of this Bench to take the contrary view, it would only be a futile exercise to go into the import of the Rules and we therefore, by accepting the law laid down by Hon’ble High Courts and Coordinate Benches of this Tribunal on the issue, and hold that post of Postal Assistant is not a promotional post of the Postman.

26 As noted above, factual aspect qua joining of post of Post Man or of Postal Assistant etc. relates, the same are undisputed. We shall now go into the question and have to consider whether the relief claimed in the O.As can be granted in answer to aforesaid impugned question that the post of Postal Assistant is not a promotional post.

27 The import of factual aspect are that applicants of undermentioned sub set of **twenty nine** OAs joined the post of Postman and having passed competitive departmental examination (LDCE) were appointed as Postal Assistant, on completion of 16 years they were granted TBOP and on or after completion of 30 years were granted 3rd MACP. Representation made by their similarly situated official, namely Shri K. B. Solanki was rejected by Respondent Department informing that entry from Postman cadre to Postal Assistant has been adjusted as set off against 1st MACP, placement in TBOP has been adjusted as set off against 2nd MACP and MACP granted with effect from 01.09.2008 is the 3rd MACP. Applicants of these 29 OAs agitating that entry from Postman cadre to Postal Assistant has wrongly been adjusted as set off

against 1st MACP, has preferred OAs separately. The details and crux of undisputed facts of this sub set of OAs are as under :-

- (I) **OA 93/2019** – Applicant in this OA is Natvarbhai S. Makwana and as per pleading he joined the post of Postman on 21.07.1977 and having passed competitive departmental examination was appointed as Postal Assistant on 14.09.1982. On completion of 16 years he was granted TBOP in year 1998. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and of 3rd MACP w.e.f. 2012, with all consequential benefits and with interest @ 12% p.a.
- (II) **OA 94/2019** – Applicant in this OA is Munawwar Ali Mujaffar Ali Kadri and as per pleading joined the post of Postman on 22.01.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 20.07.1985. On completion of 16 years he was granted TBOP in year 2001. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2015 with all consequential benefits and with interest @ 12% p.a.
- (III) **OA 95/2019** – Applicant joined the post of Postman on 14.04.1975 and having passed competitive departmental examination was appointed as Postal Assistant on 08.05.1986. On completion of 16 years he was granted TBOP on 2002. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2016 with all consequential benefits and with interest @ 12% p.a.

- (IV) **OA 96/2019** – Applicant Bhagwanbhai Muljibhai Vankar joined the post of Postman on 22.03.1979 and having passed competitive departmental examination was appointed as Postal Assistant on 06.10.1983. On completion of 16 years he was granted TBOP in year 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2013 with all consequential benefits and with interest @ 12% p.a.
- (V) **OA 97/2019** – Applicant Mohammedkhan Abdul Sattar Khandu joined the post of Postman on 19.02.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 13.12.1987. On completion of 16 years he was granted TBOP on 2003. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 13.12.2007 and 3rd MACP w.e.f. 2017 with all consequential benefits and with interest @ 12% p.a.
- (VI) **OA 98/2019** – Applicant joined the post of Postman on 28.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 11.06.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP on 13.01.2009. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2013 with all consequential benefits and with interest @ 12% p.a.
- (VII) **OA 99/2019** - Applicant joined the post of Postman on 15.07.1975 and having passed competitive departmental examination was appointed as Postal Assistant on 13.07.1981. On completion of 16 years he was

granted TBOP on 1997. Applicant was granted 3rd MACP on 10.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2011 with all consequential benefits and with interest @ 12% p.a.

(VIII) **OA 100/2019** Applicant joined the post of Postman on 28.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 11.06.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2012 with all consequential benefits and with interest @ 12% p.a.

(IX) **OA 101/2019-** Applicant joined the post of Postman on 28.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 04.10.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP in the grade of Rs 4600/- from 18.01.2009. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2013 with all consequential benefits and with interest @ 12% per annum.

(X) **OA 102/2019** - Applicant joined the post of Postman on 01.04.1974 and having passed competitive departmental examination was appointed as Postal Assistant on 05.09.1982. On completion of 16 years he was granted TBOP on 1998. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2012 with all consequential benefits and with interest @ 12% p.a.

- (XI) **OA 103/2019** - Applicant joined the post of Postman on 15.10.1972 and having passed competitive departmental examination was appointed as Postal Assistant on 13.10.1980. On completion of 16 years he was granted TBOP on 1996. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2010 with all consequential benefits and with interest @ 12% p.a.
- (XII) **OA 104/2019** - Applicant joined the post of Postman on 28.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 12.04.1988. On completion of 16 years he was granted TBOP on 2004. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2018 with all consequential benefits and with interest @ 12% p.a.
- (XIII) **OA 105/2019** - Applicant joined the post of Postman on 19.02.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 03.11.1988. On completion of 16 years he was granted TBOP on 2004. Applicant was granted 3rd MACP on 03.06.2009. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2018 with all consequential benefits and with interest @ 12% p.a.
- (XIV) **OA 106/2019** - Applicant joined the post of Postman on 21.01.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 11.06.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the

O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2013 with all consequential benefits and with interest @ 12% p.a.

(XV) **OA 107/2019** - Applicant joined the post of Postman on 04.01.1979 and having passed competitive departmental examination was appointed as Postal Assistant on 27.06.1989. On completion of 16 years he was granted TBOP on 2005. Applicant was granted 3rd MACP on 29.01.2009. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2019 with all consequential benefits and with interest @ 12% p.a.

(XVI) **OA 108/2019** - Applicant joined the post of Postman on 22.12.1977 and having passed competitive departmental examination was appointed as Postal Assistant on 09.05.1986. On completion of 16 years he was granted TBOP on 2002. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2016 with all consequential benefits and with interest @ 12% p.a.

(XVII) **OA 109/2019** - Applicant joined the post of Postman on 06.03.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 15.12.1987. On completion of 16 years he was granted TBOP on 2003. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2017 with all consequential benefits and with interest @ 12% p.a.

(XVIII) **OA 110/2019** - Applicant joined the post of Postman on 21.02.1979 and having passed competitive departmental examination was

appointed as Postal Assistant on 02.09.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2013 with all consequential benefits and with interest @ 12% p.a.

(XIX) **OA 111/2019** - Applicant joined the post of Postman on 17.04.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 20.07.1985. On completion of 16 years he was granted TBOP on 2001. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2015 with all consequential benefits and with interest @ 12% p.a.

(XX) **OA 112/2019** - Applicant joined the post of Postman on 24.02.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 04.10.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and thereafter III MACP applicable as per rules, with all consequential benefits and with interest @ 12% p.a.

(XXI) **OA 113/2019** - Applicant joined the post of Postman on 06.03.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 25.10.1985. On completion of 16 years he was granted TBOP on 09.08.2001. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and, applicant has prayed to direct the respondents to grant him upgradation in TBOP from 1996 and further, benefit of financial

upgradation under MACP on completion of 10 years, with all consequential benefits and with interest @ 12% p.a.

(XXII) **OA 114/2019** - Applicant joined the post of Postman on 01.10.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 01.10.1992. On completion of 16 years he was granted TBOP on 2008. Applicant was granted 3rd MACP on 18.10.2010. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 1st MACP from 1.1.2006 and consequently, benefits of 2nd MACP w.e.f. 2012, with all consequential benefits and with interest @ 12% p.a.

(XXIII) **OA 115/2019** - Applicant joined the post of Postman on 19.02.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 20.07.1985. On completion of 16 years he was granted TBOP on 2001. Applicant was granted 3rd MACP on 19.03.2010. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2015 with all consequential benefits and with interest @ 12% p.a.

(XXIV) **OA 116/2019** - Applicant joined the post of Postman on 17.02.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 17.07.1990. On completion of 16 years he was granted TBOP on 2006. Applicant was granted 3rd MACP on 05.08.2010. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2010 with all consequential benefits and with interest @ 12% p.a.

(XXV) **OA 118/2019** - Applicant joined the post of Postman on 06.08.1978 and having passed competitive departmental examination was

appointed as Postal Assistant on 20.07.1985. On completion of 16 years he was granted TBOP on 2001. Applicant was granted 3rd MACP on 02.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2015 with all consequential benefits and with interest @ 12% p.a.

(XXVI) **OA 119/2019** - Applicant joined the post of Postman on 28.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 04.10.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2013 with all consequential benefits and with interest @ 12% p.a.

(XXVII) **OA 136/2019** - Applicant joined the post of Postman on 28.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 04.10.1983. On completion of 16 years he was granted TBOP on 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2013 with all consequential benefits and with interest @ 12% p.a.

(XXVIII) **OA 137/2019** - Applicant joined the post of Postman on 09.10.1992 and having passed competitive departmental examination was appointed as Postal Assistant on 16.04.2005. On completion of 16 years he was granted TBOP in 1999. Applicant was granted 3rd MACP on 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of

2nd MACP w.e.f. 1.1.2006 and 2nd MACP benefits w.e.f. 09.10.2012 with all consequential benefits and with interest @ 12% p.a.

(XXIX) **OA 138/2019** - Applicant joined the post of Postman on 15.12.1977 and having passed competitive departmental examination was appointed as Postal Assistant on 14.09.1982. On completion of 16 years he was granted TBOP on 1998. Thereafter, applicant was granted 3rd MACP w.e.f. 01.09.2008. No specific order has been impugned in the O.A. and applicant has prayed to direct the respondents to grant him benefit of 2nd MACP w.e.f. 1.1.2006 and 3rd MACP w.e.f. 2012 with all consequential benefits and with interest @ 12% p.a.

28. The import of factual aspect of applicants of this sub set of **Seventeen** OAs are that they joined the post of Postman and having passed competitive departmental examination were appointed as Postal Assistant, on completion of 16 years they were granted TBOP and on or after completion of 30 years were granted 3rd MACP. According to them they were entitled for grant of 3rd MACP in the Grade Pay of Rs.4600/-, ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP, they preferred representation but it was rejected by the respondents stating that 1st Financial upgradation has been set off against appointment from Postman to Postal Assistant cadre, 2nd financial up gradation has been set off against TBOP in PA Cadre and 3rd financial up gradation has been set off against BCR. They have prayed to quash the communication whereby their representations were rejected and to direct the respondents to place their case before the Review Screening Committee for consideration of placement of them in 3rd MACP with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a. The details and crux of undisputed facts of this sub set of seventeen OAs are as under :-

(I) **OA 86/2018** - Applicant joined the post of Postman on 05.08.1976 and having passed competitive departmental examination was appointed as Postal Assistant on 05.08.1981. On completion of 16 years he was

granted TBOP w.e.f 18.02.1995 and on completion of 26 years, under BCR Scheme applicant received an upgradation w.e.f. 01.01.2008. He according to him is entitled for grant of 3rd MACP from 30.08.2011 in the Grade Pay of Rs.4600/-, ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP. Respondents have rejected the representation dated 11.11.2014 stating that 1st Financial upgradation has been set off against appointment from Postman to Postal Assistant cadre on 05.08.1981, 2nd financial upgradation has been set off against TBOP in PA Cadre (18.02.1995) and 3rd financial upgradation has been set off against BCR on 01.01.2008 vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP from 6.8.2011 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

- (II) **OA 90/2018** - Applicant joined the post of Postman on 22.01.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 09.01.1989. On completion of 16 years he was granted TBOP on 28.01.2005. Applicant was placed in 3rd MACP with Grade Pay of Rs.4200/- from 11.02.2010. Applicant preferred representation dated 02.06.2017 for grant of 2nd and 3rd MACP ignoring his promotion from Postman to Postal Assistant which was treated as off-set against 2nd MACP. Respondents have rejected the representation dated 02.06.2017 vide letter dated 17.11.2017 (Annex.A/1) without giving any reason and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his

case before the Review Screening Committee for consideration of placement of the applicant in 2nd MACP from 1.9.2008 and 3rd MACP w.e.f. 11.2.2010 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

- (III) **OA 91/2018** - Applicant joined the post of Postman on 15.01.1975 and having passed competitive departmental examination was appointed as Postal Assistant on 05.09.1982. On completion of 16 years he was granted TBOP on 05.09.1998 and on completion of 26 years applicant was granted BCR in next higher grade from 01.01.2009. He according him is entitled for grant of 3rd MACP in the Grade Pay of Rs.4600/- ignoring his promotion from postman to Postal Assistant which was treated as off-set against from 01.09.2008. Respondents have rejected the representation dated 28.06.2017 vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 28.06.2017 (Annex.A/2) having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP from 1.9.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.
- (IV) **OA 92/2018** - Applicant joined the post of Postman on 27.11.1973 and having passed competitive departmental examination was appointed as Postal Assistant on 05.09.1982. On completion of 16 years he was granted TBOP on 16.09.1988 and on completion of 26 years was granted BCR on 01.01.2009 which later on was withdrawn on introduction of MACP. He, according to him is entitled for grant of 3rd MACP from 01.09.2008 with Grade Pay of Rs.4600/- , ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP. Respondents have rejected the representation dated 21.06.2017 with unreasoned and non-speaking order vide letter dated

17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP from 1.9.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(V) **OA 93/2018** - Applicant joined the post of Postman on 29.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 01.05.1987. On completion of 16 years he was granted TBOP on 26.05.2003. Applicant was granted 3rd MACP with Grade Pay of Rs.4200/- from 08.02.2009. He, according to him is entitled for grant of 2nd MACP and 3rd MACP from 01.09.2008 and 08.02.2009 and respondents have rejected his representation, dated 08.06.2017 by order dated 17.11.2017 without giving any reasons vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA. having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 2nd MACP w.e.f. 1.9.2008 and 3rd MACP from 8.2.2009 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a. Being aggrieved he preferred instant OA.

(VI) **OA 94/2018** - Applicant joined the post of Postman on 22.01.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 25.11.1988. On completion of 16 years he was granted TBOP on 20.12.2004. Applicant placed in 3rd MACP with Grade Pay of Rs.4200/- from 08.04.2010. He preferred representation on 03.06.2017 stating that he is entitled for 3rd MACP from 01.09.2008

his promotion from Postman to Postal Assistant, which was wrongly offset against 2nd MACP but respondents have rejected his representation by order dated 17.11.2017, without giving any reasons vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 2nd MACP from 1.9.2008 and 3rd MACP with Grade Pay of Rs. 4600/- w.e.f. 19.2.2010, with all consequential benefits and with interest @ 12% p.a.

- (VII) **OA 95/2018** - Applicant joined the post of Postman on 22.01.1980 and having passed competitive departmental examination was appointed as Postal Assistant on 30.09.1989. On completion of 16 years he was granted TBOP on 16.10.2005. On introduction of MACP Scheme, applicant was granted 3rd MACP on completion of 30 years service from 06.02.2010 with Grade Pay of Rs.4200/-. He, according to him, ignoring his promotion from postman to Postal Assistant which was treated as off-set against from 01.09.2008 is entitled for grant of 2nd MACP in the Grade Pay of Rs.4200/- from 30.09.2009 and 3rd MACP in the grade pay of Rs.4600/- from 06.03.2010 but respondents have rejected his representation by order dated 17.11.2017, without giving any reasons vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 2nd MACP w.e.f.

1.9.2008 and in 3rd MACP from 6.9.2010 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(VIII) **OA 96/2019** - Applicant joined the post of Postman on 29.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 16.04.1988. On completion of 16 years he was granted TBOP on 03.05.2004. Granted 3rd MACP in Grade Pay of Rs.4,200/- w.e.f. 17.01.2009. He preferred representation on 14.06.2017 for grant of 2nd and 3rd MACP, ignoring his promotion from Postman to Postal Assistant which was treated as off-set against 2nd MACP but respondents have rejected his representation by order dated 17.11.2017, without giving any reasons vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 2nd MACP from 1.9.2008 and 3rd MACP w.e.f. 17.1.200 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(IX) **OA 97/2018** – Applicant joined the post of Postman on 24.09.1971 and having passed competitive departmental examination was appointed as Postal Assistant on 04.06.1976. On completion of 16 years he was granted TBOP on 04.06.1992 and on completion of 26 years applicant was granted financial upgradation of BCR in Pay Scale of Rs.4500-7000. On introduction of MACP, applicant was granted 3rd MACP on completion of 30 years service from 23.01.2009 with Grade Pay of Rs.4200/-. He, according him, ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP is entitled for grant of 3rd MACP from 01.09.2008 Rs.4600/- but his representation dated 12.06.2017 was rejected by unreasoned and non-

speaking order vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP from 1.9.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

- (X) **OA 119/2018** - Applicant joined the post of Postman on 15.01.1975 and having passed competitive departmental examination was appointed as Postal Assistant on 04.08.1981. On completion of 16 years he was granted TBOP on 15.08.1997. On 01.01.2008, applicant was placed in BCR. On introduction of MACP, on completion of 20 years in P.A. cadre, he was due to be placed in 2nd MACP from 04.08.2001 with grade pay of Rs.4200/- but said upgradation was not allowed and he was made eligible for 3rd MACP on completion of 30 years from 01.09.2008 with Grade pay of Rs.4200/-. He, according to him is entitled for grant of 2nd MACP from 04.08.2001 and 3rd MACP from 04.08.2011 with Grade Pay of Rs.4600/- respectively, ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP but respondents have rejected his representation dated 20.06.2017 with unreasoned and non-speaking order vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP from 4.8.2011 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

- (XI) **OA 120/2018** - Applicant joined the post of Postman on 05.02.1974 and having passed competitive departmental examination was appointed as Postal Assistant on 05.03.1980. On completion of 16 years he was granted TBOP on 29.03.1996. On 01.01.2007 applicant was placed in BCR which was subsequently withdrawn. Applicant preferred representation for grant of 3rd MACP with Grade Pay of Rs.4600/- ignoring his promotion from Postman to Postal Assistant which was treated as off-set against 1st MACP. However, respondents have rejected his representation dated 13.06.2017 with unreasoned and non-speaking order vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP from 5.3.2011 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.
- (XII) **OA 121/2018** - Applicant joined the post of Postman on 15.07.1971 and having passed competitive departmental examination was appointed as Postal Assistant on 22.11.1978. On completion of 16 years he was granted TBOP on 26.11.1994. On 01.01.2004 applicant was placed in BCR. Applicant was allowed 3rd MACP with Grade Pay of Rs.4200/- from 01.09.2008. Applicant preferred representation dated 22.06.2017 for grant of 3rd MACP with Grade Pay of Rs.4600/-, ignoring his promotion from Postman to Postal Assistant which was treated as off-set against 1st MACP but respondents have rejected the representation dated 22.06.2017 with unreasoned and non-speaking order vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being

aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP from 22.07.2011 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(XIII) **OA 122/2018** - Applicant joined Group 'D' post in Railway pura Post-Office. Ahmedabad on 21.09.1972 and was promoted to the post of Postman on 11.08.1976. Having passed competitive departmental examination he was appointed as Postal Assistant on 18.11.1978. On completion of 16 years he was granted TBOP on 26.11.1994 and on completion of 26 years was placed in BCR on 01.01.2004. On introduction of MACP, He, according to him, ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP is entitled for grant of 3rd MACP from 01.09.2008 in Grade pay of Rs.4600/- but respondents have rejected his representation dated 2.06.2017 with unreasoned and non-speaking order vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP w.e.f. 1.9.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(XIV) **OA 157/2018** - Applicant joined the post of Postman on 21.09.1972 and having passed competitive departmental examination was appointed as Postal Assistant on 25.07.1977. On completion of 16 years he was granted TBOP on 25.07.1993 and on completion of 26 years applicant was granted BCR in next higher grade from 01.01.2004. He, according to him is entitled for grant of 3rd MACP from

25.07.2007. Being aggrieved he preferred instant OA having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP w.e.f. 1.1.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(XV) **OA 167/2018** - Applicant joined the post of Postman on 11.08.1971 and having passed competitive departmental examination was appointed as Postal Assistant on 18.11.1978. On completion of 16 years he was granted TBOP and BCR after 16 and 26 years on 04.03.1996 and 01.07.2006 respectively. He, according to him, ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP is entitled for grant of 3rd MACP from 01.09.2008 in Grade pay of Rs.4600/- but respondents have rejected the representation dated 2.06.2017 with unreasoned and non-speaking order vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP w.e.f. 1.9.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(XVI) **OA 208/2018** - Applicant joined the post of Postman on 29.12.1978 and having passed competitive departmental examination was appointed as Postal Assistant on 21.07.1987. On completion of 16 years he was granted TBOP on 15.05.2003. On introduction of MACP, applicant was granted 3rd MACP on completion of 30 years service from 23.01.2009 with Grade Pay of Rs.4200/-. He, according to him, ignoring his promotion in Postal Assistant cadre which was treated as

off-set against 1st MACP is entitled for grant of 2nd MACP from 01.09.2008 and 3rd MACP from 23.01.2009 with Grade Pay of Rs. 4200/- and Rs.4600/- respectively but respondents have rejected the representation dated 06.07.2017 with unreasoned and non-speaking order vide letter dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) and, being aggrieved he preferred instant OA, having prayer to quash Annexes. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 2nd MACP w.e.f. 1.9.2008 and 3rd MACP w.e.f. 23.01.2009 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

(XVII) **OA 282/2018** - Applicant joined the post of Postman on 21.09.1970 and having passed competitive departmental examination was appointed as Postal Assistant on 01.09.1978. On completion of 16 years he was granted TBOP on 30.08.1995 and on completion of 26 years was granted BCR from 01.01.2005. He, according to him, ignoring his promotion in Postal Assistant cadre which was treated as off-set against 1st MACP is entitled for grant of 3rd MACP from 01.09.2008 with Grade Pay of Rs.4600/- but respondents have rejected the representation dated 09.04.2018 by order dated 03.05.2018 giving the details of promotion already granted. Being aggrieved by the impugned orders instant OA has been preferred to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP w.e.f. 01.09.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

29 The import of factual aspect of applicants of this sub set of **Six** OAs are also almost the same with the subset of OAs of para 25 but with slight variation. Applicant of OAs

of this subset also joined the post of Postman and having passed competitive departmental examination were appointed as Postal Assistant, on completion of 16 years they were granted TBOP and on or after completion of 30 years were granted 3rd MACP. The details and crux of undisputed facts of this sub set of six OAs are as under:-

- (I) **OA 209/2018** - Applicant joined the post of Postman on 20.04.1975 and having passed competitive departmental examination was appointed as Postal Assistant on 06.09.1982. On completion of 16 years he was granted TBOP on 06.09.1998 but BCR placement granted on completion of 26 years on 01.01.2009 was subsequently withdrawn but applicant was allowed 3rd MACP with Grade Pay of Rs.4200/- w.e.f. 01.09.2008. He preferred representation on 16.06.2017 stating that according to him, ignoring his promotion from Postman to Postal Assistant which was off-set against 1st MACP he is entitled for grant of 2nd MACP from 01.09.2008 and 3rd MACP from 06.09.2012 with Grade Pay of Rs.4200/- and Rs.4600/- respectively but respondents have rejected the representation dated 03.06.2017 by order dated 17.11.2017 without giving any reasons. Applicant filed OA 190/2018 seeking reliefs but withdrawing said OA on 28.02.2018, with liberty to file fresh application did file instant OA. Being aggrieved by the impugned orders dated 17.11.2017 (Annex.A/1) and communicated the same to applicant vide letter dated 8.12.2017 (Annex.A/2) applicant has preferred this O.A. having prayer to quash Annexs. A/1 and A/2 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 2nd MACP w.e.f. 1.9.2008 and 3rd MACP w.e.f. 06.09.2012 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

- (II) **OA 299/2018** - Applicant was appointed as EDA Balasar BO under Rahpar SO in Kachchh Division and appeared from EDA Balasar BO in the LDCE for Class IV and he joined as LR class IV IP Bhachau on 06.12.1979 and thereafter appeared in Postman Examination held on 08.05.1980 and declared successful and joined the post on 06.08.1980. On completion of 16 years of service in Postman cadre he was granted TBOP on 10.06.1997 and on completion of 26 years of service was granted next higher grade under BCR on 27.09.2007. He, according to him is entitled for grant of 3rd MACP from 12.08.2010 with Grade Pay of Rs. 4200/- and Rs.4600/- on completion of 30 years from the cadre of Postal Assistant. Respondents have rejected the application dated 29.04.2014 stating that he has entered the cadre of Postman through promotion, thereafter promotion of TBOP after 16 years and BCR on completion of 26 years is there and hence he is not entitled to any further promotion. Being aggrieved by the impugned orders, he preferred instant OA. having prayer to quash the same and direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP w.e.f. 01.09.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.
- (III) **OA 375/2017** - Applicant joined the post of Postman on 15.01.1971 and having passed competitive departmental examination was appointed as Postal Assistant on 19.07.1975. On completion of 16 years he was granted TBOP on 19.07.1992 and on completion of 26 years applicant was granted BCR in next higher grade from 01.01.2002. He, according to him, ignoring his promotion from postman to Postal Assistant which was treated as off-set against from 01.09.2008 is entitled for grant of 3rd MACP in the Grade Pay

of Rs.4600/- w.e.f. 01.09.2008, he on 06.06.2015 made representation but respondents have not replied to the representation. Being aggrieved by the impugned orders as above, he preferred instant OA having prayer to quash the same and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of the applicant in 3rd MACP w.e.f. 1.9.2008 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

- (IV) **OA 503/2017** - Applicant joined the post of Postman on 22.01.1980. On completion of 16 years he was granted TBOP on 26.01.1998. Applicant having passed competitive departmental examination was appointed as Postal Assistant on 29.03.1998. On introduction of MACP Scheme, applicant was granted 3rd MACP, on completion of 30 years service from 01.09.2008 which subsequently was withdrawn and modified to 06.03.2010 with Grade Pay of Rs.4200/- Applicant submitted representation dated 30.05.2015 for restoration of 2nd and 3rd MACP with Grade Pay of Rs.4200/- from 01.09.2008 and Rs.4600/- from 06.03.2010. On 09.08.2016 respondents raised recovery of Rs.2,07,616/- in view of Modification in date and Grade Pay of 2nd MACP. He according him is entitled for grant of 2nd MACP and 3rd MACP with Grade Pay of Rs.4200/- and Rs.4600/- ignoring his promotion from postman to Postal Assistant. Respondents have rejected the representation dated 30.05.2015 vide letter dated 28.04.2015 giving the details of upgradations and directing Postmaster, Gandhinagar to take necessary action for regularisation of 3rd MACP. Being aggrieved by the impugned order dated 28.4.2015, he preferred instant OA, having prayer to quash the same and direct the respondents to place his case before the Review

Screening Committee for consideration of placement of the applicant in 2nd MACP w.e.f. 1.9.2008 and 3rd MACP w.e.f. 06.03.2010 with Grade Pay of Rs. 4600/- with all consequential benefits and with interest @ 12% p.a.

- (V) **OA 491/2016** - This OA is having chequered history. Applicant joined the Department of Post as a Group D employee on 28.08.1973 and after passing the required examination on 03.01.1976 he was promoted to the post of Postman and thereafter on having passed competitive departmental examination was appointed as Postal Assistant on 14.09.1982. On completion of 16 years he was granted TBOP on 09.10.1998 and on completion of 26 years of service he was granted BCR to the next higher grade on 09.09.2009. Thereafter without giving him the opportunity department cancelled the order dated 09.09.2009, whereby he was granted BCR and consequently his Grade Pay was reduced from Rs.4200/- to Rs.2800/- and ALSO recovered a sum of Rs.44, 045/-. Being aggrieved by recovery and cancellation of BCR and for non-grant of 3rd MACP, applicant approached Tribunal by way of OA 191/2012 and it was disposed of by the Tribunal on 06.08.2013 holding that the applicant is entitled to the benefit as claimed under the 3rd MACP and directed the respondent to pass a speaking order. Being aggrieved by the order passed by the Tribunal, Department approached Hon'ble High Court of Gujarat by way of Special Civil Application No.829 of 2014 and the Hon'ble High Court, by its order dated 05.03.2014 pleased to dismiss the said petition summarily. On 16.09.2014 the Department passed an order denying the benefit of 3rd MACP to the applicant. Applicant filed Contempt Petition No.30/2014 which was disposed of by this Tribunal on 16.07.2015. That Department

has informed the applicant about the rejection of his case for the benefit of 3rd MACP. Being aggrieved applicant has preferred instant OA, having prayer to quash the impugned order dated 23.02.2015 and to direct the respondents to place his case before the Review Screening Committee for consideration of placement of applicant in 3rd MACP according to rules and for refund Rs. 44,045/- recovered from him, with all consequential benefits and with interest @ 12% p.a.

(VI) **OA 273/2018** - Applicant joined the post of Postman on 06.04.1973 and having passed competitive departmental examination was appointed as Postal Assistant on 01.09.1978. On completion of 16 years he was granted TBOP on 30.08.1995. On completion of 26 years was in the cadre of Postal Assistant was granted BCR from 01.01.2005. He preferred representation, dated 18.08.2017 to the respondents stating that his entry in service is required to be counted from the cadre of Postal Assistant and accordingly to grant the benefits of 3rd MACP Grade Pay of Rs.4600/- w.e.f. 01.09.2008 as he had completed 30 years of services in the cadre of Postal Assistant. Said representation was rejected by respondents vide order dated 03.11.2017 considering the recruitment of applicant from the cadre of Postman to Postal Assistant as 1st financial up gradation and OTBP and BCR as MACP 2nd and 3rd and accordingly denied him the benefit of MACP 3rd. He preferred instant OA having prayer to quash the impugned order dated 03.11.2017 denying him his 3rd financial upgradation under MACP scheme and, respondents be directed to place his case before the Review Screening Committee for consideration of placement of applicant in 3rd MACP with all consequential benefits and with interest @ 12% p.a.

30. Prior to 6th CPC recommendations, which were applicable w.e.f. 01.01.2006, the Government had a scheme known as Assured Career Progression Scheme (ACP Scheme introduced on 09.08.1999). ACP Scheme allowed two financial upgradations subject to fulfilment of prescribed conditions, first on completion of 12 years and second on completion of 24 years. Even before introduction of the ACP scheme, both the departments namely, Department of Posts and Department of Telecommunications provided 'First Time Bound Promotion' (called as OTBP in Telecom & TBOP in Postal Department) on completion of 16 years of service in the basic grade. These two departments further introduced Biennial Cadre Review (BCR) benefit after completion of 26 years of service in the basic grade including time spent in higher grades/OTBP.

The Sixth Central Pay Commission recommended Modified Assured Career Progression Scheme (MACP). The Government accepted the same with some modification to grant three financial upgradations for the central government employees under this revised Scheme at intervals of 10, 20 and 30 years of continuous regular service and issued orders vide Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) **OM No 35034/3/2008-Estt. (D) Dated 19.5.2009**. This scheme is in supersession of previous ACP Scheme and clarifications issued there under. The scheme shall be applicable to all regularly appointed Group "A", "B", "C" Central Government Civilian Employees except officers of the Organised Group "A" service. The status of Group D employees ceased and they were treated as Group C multi-skilled employees on their completion of prescribed training. Casual employees, including those granted 'temporary status' and employees appointed in the Central Government only on adhoc or contract basis, were not granted benefits under the aforesaid Scheme.

With the introduction of MACP scheme OTBP/BCR orders turned obsolete. In that regard it is necessary to take note, that for the purpose of MACP etc., the actual date of joining the post of Postal Assistant/Sorting Assistant is relevant, when it is considered as a promotion post and elevated the position to a different grade. But once it is held that posting as Postal Assistant/Sorting Assistant is not a promotion, the

service length of Postman post, cannot be claimed for the purpose of financial upgradation through MACP, because it is only the stagnation for which the financial upgradation is provided under the MACP Scheme.

31. Grievances of applicants as of this set of fifty two OAs are that either TBOP/ BCR/ MACP granted earlier to them has been cancelled & adjusted as set off treating the post of Postal Assistant as promotion post of Postman and they were not granted their due MACP. The stand of respondents is that it is a promotional post and that entry from Postman cadre to Postal Assistant has rightly been adjusted and set off against TBOP / BCR/MACP. The outcome of all OA of this set would be a direct sequetur of the controversy, namely ***‘whether the post of Postal Assistant is a promotional post for the post of Postman’*** and having discussed the legal scenario we have held, as discussed above that post of Postal Assistant is not a promotional post of the Postman (para 25 supra).

32. In view of the foregoing factual and the legal scenario and the rules propounded by the jurisprudence, we hereby quash all impugned orders of this set of OAs whereby either TBOP/ BCR/ MACP granted earlier to them has been cancelled & adjusted as set off or they were declined their TBOP/ BCR/ MACP due treating the post of Postal Assistant as promotion post of Postman. Respondents are directed to place the claim of applicants for examination afresh before the Review Screening Committee treating the date of entry into the cadre/grade of the post of Postal Assistant as the starting point and to release the financial upgradations of 1st, 2nd and 3rd MACP, as the case may be, to which they are entitled, keeping in mind that promotion of the applicants as Postal Assistant was not a ‘promotion’, within a period of three months (90 days) from the date of receipt of a certified copy of this order with consequential benefits.

It is made clear that while giving the benefit of financial upgradation(s) to the applicants in accordance with the aforementioned view, respondent will make calculation of the benefits payable to applicants and would refund any such amount which was recovered from them on the reasoning that his/their appointment to the post of Postal Assistant was promotion. Applicants shall be accordingly entitled to all the

arrears with interest at the rate permissible under Rules, being payable on the arrears of the financial upgradation benefits admissible to them.

33. With abovesaid observation and direction, all fifty two OAs stand disposed of. Pending MA, if any in either of OA, also stands disposed of accordingly.

(M C Verma)
Member(J)

(Pradeep Kumar)
Member(A)

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