

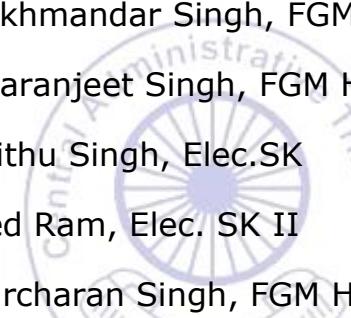
**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MR. A.K. BISHNOI, MEMBER (A).

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**I. O.A. No.60/733/2017
M.A. No.60/1172/2017**



1. MES No.372821 Gurtej Singh, FGM HS I
2. MES No.373829 Sukhmandar Singh, FGM HS II
3. MES No.372824 Charanjeet Singh, FGM HS II
4. MES No.368695, Mithu Singh, Elec.SK
5. MES No.368820 Med Ram, Elec. SK II
6. MES No.372682 Gurcharan Singh, FGM HS II.
7. MES No.372095 Gurnam Singh, PF HS II.
8. MES No.372831 Pritam Singh, PF HS.
9. MES No.371721, Sukhmandar Singh, Mate.
10. MES No.373830, Balwinder Singh, Mate.
11. Army No.1465192, Baltej Singh, Mate.

All O/o Garrison Engineer, Faridkot (Group C).

... APPLICANTS

VERSUS

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. The Engineer-in-Chief, Ministry of Defence, Army HQ, New Delhi.
3. The Chief Engineer, Western Command, Chandimandir.

4. Commander Works Engineer, Ferozpur.
5. Garrison Engineer, Faridkot.
6. Principal Controller of Defence Accounts (WC), Sector-9A, Chandigarh.

... RESPONDENTS

II. O.A. No.60/735/2017

1. MES No.373412, Shashi Pal, FGM HS II
2. MES No.373410, Jaswant Singh, FGM HS II
3. MES No.373413, Rajiv Kumar, FGM HS II
4. MES No.373418, Paramjit Singh, Elec. HS II
5. MES No.373414, Gurnam Singh, Pipe Fitter HS II
6. MES No.373416, Teja Singh, Elec. HS II

All O/o Garrison Engineer, Jagraon Bridge, Ludhiana (Group C).

... APPLICANTS

VERSUS

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. The Engineer-in-Chief, Ministry of Defence, Army HQ, New Delhi.
3. The Chief Engineer, Western Command, Chandimandir.
4. Commander Works Engineer, Ferozpur.
5. Garrison Engineer, Jagraon Bridge, Ludhiana.
6. Principal Controller of Defence Accounts (WC), Sector-9A, Chandigarh.

... RESPONDENTS

PRESENT: Sh. Shailendra Sharma, counsel for the applicants.
Sh. Sanjay Goyal, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. This order will dispose of the above captioned two OAs, as question of law involved and relief claimed therein are identical. However, for convenience facts are being taken from the case of **Gurtej Singh & Ors.**
2. Applicants herein are aggrieved against letter dated 7.1.2013 (Annexure A-1), letter dated 17/20.4.2015 (Annexure A-4) and letter dated 28.4.2015 (Annexure A-5).
3. Facts are broadly not in dispute.
4. Applicants initially joined the respondent department in the year 1987 in the pay scale of Rs.950-1500. Their post was re-designated as FGM. After implementation of 5th CPC, they were placed in the revised pay scale of Rs.3050-4590. On introduction of ACP Scheme w.e.f. 9.8.1999, they were given first ACP in the pay scale of Rs.4000-6000 as they could not be promoted. Thereafter, while implementing recommendations of 6th CPC from 1.1.2006, the applicants were placed in the revised pay scale of Rs.5200-20200 plus Grade pay of Rs.2400/- w.e.f. 1.1.2006. It is the case of the applicants that thereafter they became entitled to second financial up-gradation under MACP which superseded the earlier ACP Scheme, in the grade pay of Rs.2800/-. In 2013, the applicants were promoted to the post of HS II w.e.f. 1.1.2006 and were granted one increment of 3% for discharging higher duties on promotion. Subsequently, vide order dated 11.3.2015 (Annexure A-3), respondent no.6 directed respondent no.5 to cancel order in respect of the applicants vide

which they were granted one promotional increment and start recovery proceedings on the plea that once applicants have been granted second financial up-gradation under MACP then they are not entitled to 3% increment on their promotion and subsequently passed order for initiating recovery against which the applicants are before this Court.

5. In support of the above plea, learned counsel for the applicants vehemently argued that impugned order withdrawing benefit of 3% increment on promotion and effecting recovery is bad in law. To substantiate his plea, he submitted that on implementation of 6th CPC recommendations w.e.f. 1.1.2006 certain pay scales were merged in one and applicants, who were in the pay scale of Rs.4000-6000, were placed in the pay band of Rs.5200-202000 with Rs.2400/- grade pay. While granting them MACP benefit, they were granted grade pay of Rs.2800/-. But subsequently, in 2013, they were given promotion as HS-II w.e.f. 1.1.2006, so respondents allowed them increment of 3%. However, arbitrarily both the benefits have been withdrawn on the plea that they cannot be granted 3% increment on their promotion as they have already been granted second MACP. Thus, he submitted that applicants have been put into disadvantageous position. Neither second MACP benefit nor increment on promotion has been granted to them. Thus, he prayed that order be quashed.
6. Respondents have contested the claim of the applicant by filing detailed written statement.
7. Sh. Sanjay Goyal, learned counsel for the respondents submitted that case of the applicants is squarely covered by para 9 of the ACP policy

dated 9.8.1999. Thus, he prayed that the impugned order be upheld and O.A. be dismissed.

8. We have heard learned counsel for the parties and have perused pleadings available on record.
9. We are of the considered view that this petition deserves to be allowed for following reasons. Firstly, it is not in dispute that when applicants were granted benefit under APC, they were placed in pay scale of Rs.4000-6000. On implementation of 6th CPC, they were placed in the pay band of Rs.5200-20200 with grade pay of Rs.2400/- as they were in pre-revised scale of Rs.4000-6000. Accordingly, while granting second MACP on completion of 20 years service, they were placed in the grade pay of Rs.2800/-. Subsequently, they were promoted as HS-II w.e.f 1.1.2006 and granted 3% increment on their promotion to higher post, which is sought be withdrawn by the respondents on the plea that they are not entitled to grade pay of Rs.2800/- as they have been given promotion in the grade pay of Rs.2800/-. Virtually by the impugned orders respondents have withdrawn both the benefits firstly 3% increment and second MACP because once they have been granted benefit of 2nd MACP in grade pay of Rs.2800/- and then they have been promoted then they are entitled to grade pay of Rs.2800/- thus, we uphold action of the respondents in withdrawing 3% increment but they cannot withdraw benefit of second MACP in grade pay of Rs.2800/-. If applicants have any grievance regarding date of grant of 2nd MACP, then they can move to the respondents, who will look into their grievance. Accordingly, impugned order withdrawing benefit of MACP is quashed and set aside. However, we make it clear that applicants are not

entitled to 3% increment on promotion after getting second financial up-gradation, when they got the benefit of pay fixation which is not permissible if one is promoted subsequently.

10. Both the OAs along with M.A. stand disposed of accordingly. No costs.

(A.K. BISHNOI)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 17.07.2019.

Place: Chandigarh.

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