

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, CAMP AT NAGPUR**

ORIGINAL APPLICATION Nos.2170, 2167, 2168 & 2169 of 2018

Dated this Friday, the 26th day of July, 2019

**CORAM : R. VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)**

Sitaram S/o Balaji Morey, Aged about 72 years,
Occu. Retired, R/o Plot No.645, New Subhedar Lay Out,
Near Baseshwer Putla, Post Ayodhya Nagar,
Nagpur 440 024. **- Applicant in OA No.2170/2018**

Namdeo S/o Punaram Bharaskar, Aged about 72 years,
Occu. Retired, R/o Plot No.9, Doye Lay out,
Zingabai Takli, Nagpur 440 030. **- Applicant in OA No.2167/2018**

Avinash S/o Gajanan Karandikar, Aged about 71 years,
Occu. Service, R/o 22-A Gawande Layout, Chhatrapati Nagar,
Wardha Road, Nagpur 440 015. **- Applicant in OA No.2168/2018**

Shantaram S/o Vithalrao Kale, Aged about 71 years, Occu. Service,
R/o Plot No.56, Hanuman Nagar, Near Medical College Square,
Nagpur 440 009. **- Applicant in OA No.2169/2018**
(By Advocate Shri S.D.Kahaley)

Versus

1. The Union of India, Through its Secretary,
Ministry of Finance, North Block, New Delhi 110 001.
2. The Controller General of Accounts,
Ministry of Finance, (DOE) Mahalekha Niyantrak Bhawan,
CGO Complex, Block E, Aviation Colony,
INA Colony, New Delhi 110 023.
3. The Chief Controller of Accounts, Ministry of Mines,
Room No.299, 'C', Udyog Bhawan, New Delhi 110 001.
4. The Pay and Accounts Officer,
Geological Survey of India (CR), Seminary Hills,
Nagpur 440 006. **- Respondents in all the OAs**
(By Advocate Ms. Renuka Puranik Nalamwar)

ORDER ORAL

Per : R.Vijaykumar, Member (Administrative)

This application has been filed by four
officials who were holding the post of Senior

Accountant in PB-II with Grade Pay of Rs.4,600/- with the respondents and completed 30 years of service between 01.01.2006 and 01.09.2008 and superannuated from service from 30.04.2007, 31.05.2007, 31.05.2008 and 30.06.2008 i.e. after 01.01.2006 but before 01.09.2008 prior to the declaration of the MACP Scheme.

2. They have sought the following relief under Section 19 of the Administrative Tribunals Act, 1985:-

“8(1). That the impugned orders rejecting the III MACP to the Applicant conveyed in letter No.PAS/6(109)/MACP/2017-18/216 dated 05.06.2018 by the respondent No.3 may kindly be quashed and set aside.

8(2). That the respondents be directed to grant III Modified Assured Career Progression to the Applicant w.e.f. 01.01.2006 and pass on all the consequential benefits arising there-from.

8(3). That the respondents be directed to fix his pay afresh after allowing the benefit of III MACP w.e.f. 01.01.2006 pay the arrears of pay as a result of re-fixation of pay.

8(4). That after re-fixing his pay, revise all his retirement entitlements in view of the pay arrived at after allowing III MACP and regulating his pay till the date of his retirement and make the payment of arrears owing to revision of DGRG, Pension, Commuted value of pension, leave encashment etc without further loss of time.

8(5). The cost of this litigation may be saddled on the respondents.

8.6). Any other relief which this Hon'ble Tribunal may deem fit and proper in the interest of justice.”

3. The learned counsel for the applicant relies on the judgment of the Hon'ble Apex Court in **Union of India and Ors. Vs. Balbir Singh Turn & Anr**, in Civil Appeal No.3744/2016 decided on 08.12.2017 and which has been adopted by the Hon'ble High

Court of Bombay in **M.P. Joseph Vs. Union of India and others**, Writ Petition No.1763/2013 pronounced on 15.10.2018, wherein it has been held that MACP upgradation is part of the pay structure recommended by the VI Central Pay Commission approved by the Cabinet.

4. In these circumstances, the applicant has argued that the applicant should have been granted the benefit of MACP upgradation with effect from 01.01.2006 or on the date when they completed 30 years of service as applicable in each case.

5. The learned counsel for the respondents was heard in this matter. The learned counsel for the respondents, after going through the aforesaid two judgments of the Hon'ble High Court and the Hon'ble High Court of judicature at Bombay, very fairly submitted that in view of the judgment, the orders passed on the applicants' request requires to be revisited by the respondents and necessary orders are required to be filed.

6. In view of the aforesaid, the impugned orders dated 05.06.2018 (Annexure A-1) in the aforesaid OA are quashed and set aside. The respondents are directed to reconsider the claim of the applicants for financial upgradation under 3rd MACP with effect from 01.01.2006 or any other date from which the applicant has completed 30 years of service keeping in view the judgment of the

Hon'ble Supreme Court in **Balbir Singh** Supra and the judgment of the Hon'ble High Court of Bombay in **M.P. Joseph** Supra and pass necessary orders in this regard as expeditiously as possible and in any case, within eight weeks from the date of receipt of a certified copy of this order. It is further made clear that in case on such reconsideration, the applicants are found entitled for grant of 3rd financial upgradation under MACP Scheme, the respondents shall calculate the arrears of pay, revise their pension and calculate the arrears of pension and make payment thereof within a period of eight weeks thereafter along with interest at the rate of 6% per annum from the date when such benefits have become admissible to the applicants until payment thereof.

7. In the aforesaid terms, the OA stands allowed. There shall be no order as to costs.

(R.N.Singh)
Member (Judicial)

(R.Vijaykumar)
Member (Administrative)

kmg*

57
21/4/19