

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1782/2014

New Delhi, this the 06th day of November, 2019

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

1. Baldev Singh
Age 58, Working as Inspector
S/o Sh. Brij Lal
R/o H.No. 100, Pratap Vihar Part-I
Sultan Puri, Delhi-110086.
2. Roop Singh Verma
Age 58, Working as Inspector
S/o Late Sh. Dhani Ram
R/o Flat No. 49, Type-III, ITC
Utri Pitam Pura Delhi-110034.
3. Jai Ram Verma
Age 58, Working as Inspector
S/o Sh. Mahant Ram Verma
R/o Flat No. 83, Type-III, ITC
Utri Pitam Pura Delhi-110034.
4. Hem Prabh Thakur
Age 57, Working as Inspector
S/o Sh. Chet Ram
R/o Flat No. 460, Type-III, ITC
Utri Pitam Pura Delhi-110034.
5. Anil Jaswal
Age 56, Working as Administrative Officer
S/o late Sh. Piara Singh
R/o Flat No. B-7/29, IIInd Floor
Sector-15, Rohini, New Delhi.
6. Amar Singh
Age 58, Working as Administrative Officer

S/o late Sh. Relu Ram
 R/o H. No. 99, Pratap Vihar Part-I
 Sultan Puri, Delhi-110086.

7. Bhim Singh Chauhan
 Age 58, Working as Inspector
 s/o Late Sh. Balak Ram
 R/o H.No. 108-A, Pratap Vihar Part-I
 Sultan Puri, Delhi-110086.
8. Sohan Singh Thakur
 Age 57, Working as Office Superintend
 S/o late Sh. Puran Chand
 R/o Flat No. 40, Type-III, ITC
 Utri Pitam Pura Delhi-110034.
9. Naresh Kumar
 Age 57, Working as Inspector
 S/o Late Sh. Kunwar Bhan
 R/o 39, Layal Pur Colony, Krishna Nagar, Delhi-110051.
10. Bhagirath Bhardwaj
 Age 57, Working as Inspector
 S/o Sh. Dalla Ram
 R/o Flat No. 57, Type-III, ITC
 Utri Pitam Pura Delhi-110034.
11. Nishi Bala Sharma
 Age 54, Working as Administrative Officer
 W/o Sh. P.K. Sharma
 R/o 228, Type-III, Sector-1
 Sadiq Nagar, Delhi-110049.
12. Jagmohan Kumar
 Age 57, Working as Inspector
 S/o Late Sh. Jagdish Chand
 R/o Flat No. 19, Type-III, ITC
 Utri Pitam Pura Delhi-110034.Applicants
 (through Sh. H.S. Dahiya)

Versus

1. Union of India through
Secretary Revenue
Ministry of Finance, North Block, New Delhi-1.
2. The Secretary
Ministry of Personal, Public Grievances and Pensions
Department of Personnel & Training, New Delhi.
3. The Chairman
Central Board of Direct Taxes
Department of Revenue
Ministry of Finance, North Block, New Delhi.
4. The Chief Commissioner (Administration)
IIIrd Floor, Central Revenue Building
New Delhi-2. ...Respondents
(through Sh. S.K. Tripathi for Sh. Gyanendra Singh)

ORDER(ORAL)

Mr. Justice L. Narasimha Reddy

The applicants were initially appointed as Clerks in the Beas Construction Board (BCB). On being rendered surplus, their names were included in the Central Surplus Staff Cell in the year 1984. Later on, they were posted as Lower Division Clerks (LDCs) in the Income Tax Department in the year 1985.

2. There existed some dispute and uncertainty about the pay scales which, the applicants were drawing while in BCB on the one hand and the Income Tax Department on the other hand. Orders came to be issued from time to time. The applicants contend that

they were granted promotion as Upper Division Clerks in the year 1993 and later on as Tax Assistants on 30.04.1997. This OA is filed with a prayer to direct the respondents to grant the first ACP on completion of 12 years of service in the pay scale of 5500-9000, second ACP in the pay scale 6500-10500 from the date on which they completed 24 years of service and three financial upgradations by placing them in the Grade Pay of Rs. 4600/-, Rs. 4800/- and Rs. 5400/- on completion of thirty years of service on implementation of the MACP contained in the OM dated 01.09.2008. It is also prayed that the respondents be directed to correctly fix the pay of the applicants after grant of financial upgradations arising out of ACP and MACP and pay them the arrears of pay and allowances. The applicants have since retired from service.

3. The applicants contend that the promotions that were extended to them need to be ignored in view of the fact that the promotions were to a post which carried a lesser scale of pay than the one in the feeder category, as a result of revision of pay scales and in view of the orders passed by the various Benches of this Tribunal. It is also stated that the benefits of first and second ACP and subsequent MACP are to be granted in the corresponding pay scales and arrears need to be paid.

4. The respondents filed counter affidavit. It is stated that the applicants were extended promotion at different points of time and once an employee is promoted, he cannot claim the benefit of ACP for that very period. It is also stated that the applicants were placed in the appropriate scales from time to time.

5. We heard Sh. H.S. Dahiya, learned counsel for the applicants and Sh. S.K. Tripathi appearing for Sh. Gyanendra Singh, learned counsel for the respondents.

6. The applicants initially joined BCB and after working there for about seven years, they were rendered surplus. In the year 1985, they were posted in the Income Tax Department as LDCs. The record discloses that the respondents have counted the service rendered by the applicants and other similarly situated persons in the BCB also, for the purpose of extending the benefit of first and second ACP depending on the fact that whether they earned promotions or not. On 15.04.2011, DoP&T has also issued certain guidelines regarding the financial upgradations under ACP in respect of the applicants. Though the applicants contend that the benefit thereof was not extended, the record is not clear.

7. In the context of extending the benefit of first and second ACP and subsequent third MACP, what becomes relevant is:

- (a) the length of service rendered by the employee.
- (b) whether the employee was promoted within the stipulated period of twelve years and twenty four years and;
- (c) whether the employee was granted the benefit of MACP on completion of thirty years of service.

8. The subsequent clarifications issued by the Government provide for ignoring certain promotions in the context of grant of ACP and MACP, in case, the scales of pay to the promoted posts turned out to be less than the scales of the feeder category post also becomes relevant. Similar observations were also made in the context of merger of posts on the basis of recommendations of the 6th Central Pay Commission.

9. Though the applicants have delivered elaborate pleadings and learned counsel for the applicants has also advanced the arguments for quite some time, the correct picture is not forthcoming. The applicants have earned promotions to the post of UDCs and Tax Assistants, and at the same time, they are claiming benefit of ACP and MACP. Unless the relevant facts are verified with reference to the pay scales of the posts to which they were promoted and the effect of the subsequent revisions, we find it difficult to grant the

relief. Further, the applicants did not make any comprehensive representation to the respondents. This is not a case of total denial of promotion or ACP. It is more a case of readjustment. For this purpose, the relevant facts pertaining to the individual applicants need to be placed before the respondents. Since the applicants have retired from service, the representations, if made by them, needs to be attended to, at the earliest. Though, we find it somewhat abnormal in giving this nature of disposal in OA, which is pending for the past five years, we are left with no alternative.

10. We, therefore, dispose of the OA leaving it open to the individual applicants to make a comprehensive representation duly furnishing the particulars of the services and the basis for their claims for ACP and MACP, as the case may be. As and when such representations are made, the concerned respondents shall pass a reasoned order within a period of three months thereafter. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/