



WEB COPY

W.P.No.39539 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**W.P.No.39539 of 2025
and
W.M.P.No.44407 of 2025**

1. Union of India,
rep. by the Secretary to Government,
Department of Health Research,
Ministry of Health and Family Welfare,
New Delhi.

2. Director General,
Indian Council of Medical Research,
Ansari Nagar, New Delhi.

3. Director,
Vector Control Research Centre,
Puducherry.

... Petitioners

Vs.

R.Sundarammal,
Senior Library and information Officer,
Vector Control Research Centre,
(Indian Council of Medical Research),
Puducherry.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records from the Central Administrative Tribunal, Chennai, relating to its order dated 11.02.2025 in O.A.No.310/00417/2014 and quash the same as illegal, arbitrary, without jurisdiction.



W.P.No.39539 of 2025

For Petitioners : Mr.K.Srinivasa Murthy,
S.P.C.C.G.

For Respondent : Ms.S.R.Sundarammal, Party-in-person

ORDER

S.M.SUBRAMANIAM,J.

Under assail is the order dated 11.02.2025 passed by the Central Administrative Tribunal, Chennai Bench (hereinafter called as 'CAT') in O.A.No.310/00417/2014.

2. Union of India preferred the present writ petition mainly on the ground that the respondent was granted the benefit of three upgradations i.e., one promotion and two upgradations and thus, she is not entitled to get any further upgradation under the ACP/MACP scheme. The CAT mainly proceeded on the ground that the upgradation granted to the respondent, while recategorising the post of Librarian as Librarian and Information Officer, not granted promotion and the said re-categorisation cannot be construed as upgradation/promotion and therefore, the respondent is entitled for upgradation under ACP/MACP scheme.

3. Mr.Srinivasamurthy, learned Senior Panel Counsel appearing on behalf of the writ petitioners would contend that the case of ***K.V.Ratanakar (K.V.Ratanakar vs. Union of India O.A.No.1308/2007 dt.16.01.2008 CAT, Delhi)*** relied on by the respondent before the CAT is



factually distinguishable, since no promotion has been granted to the said *Ratanakar's case*. However, in the present case, the respondent was promoted from the post of Librarian to Senior Librarian on 10.07.1989. Thus, the ratio applied in *Ratnakar's case* has been erroneously adopted by the CAT while allowing the claim of the respondent.

4. Mr.Srinivasamurthy, learned Senior Panel Counsel relied on the judgment of the High Court of Delhi dated 19.05.2016 in the case of ***Pratibha Prashar vs. Union of India***¹. In the said case, the Union of India had issued several clarifications pertaining to ACP Scheme in Office Memorandum dated 18.07.2001 which would clarify that if the existing incumbents in the pre-rationalised grades do not possess the qualification/experience are considered for placement in the corresponding grades scale, only after completion of considerable length of service in the existing grades, then such a placement will be taken as promotion/upgradation.

5. In the present case, the respondent was granted upgradation on completion of 8 years of service and she was fully eligible for upgradation with effect from 10.7.1997. When the respondent was fully qualified, then the date of upgradation is to be construed as promotion for all purposes and therefore, the said upgradation would also to be treated

¹ 2016 DHC 4106-DB



as an upgradation under the ACP/MACP Scheme.

WEB COPY

6. In the case of ***Ramanand and others vs. The Chief Secretary, Government of NCTL of Delhi***², the Hon'ble Apex Court ruled as follows:

15. Learned counsel in the aforesaid context, while turning to the factual matrix of the present case, submitted that there are three aspects which are material in the present case:

- (i) prequalification of minimum of 5 years of service;*
- (ii) higher financial emoluments;*
- (iii) rigours of a specialised training.*

These make a candidate eligible. It was, thus, a submission that if all these three are considered together, there can be no doubt that the present case is one which should be considered as the promotion for the purpose of ACP Scheme.

16. We have examined the aforesaid contention and we are of the view that the benefits of ACP Scheme cannot be held applicable to the appellants and consequently the High Court was right in interfering with

² 2020(6) SCR 19



the order of CAT.

17. *The reasons for coming to this conclusion are based on the principles set out in BSNL case [BSNL v. R. Santhakumari Velusamy, (2011) 9 SCC 510 : (2011) 2 SCC (L&S) 496] . No doubt, sometimes there is a fine distinction which arises in such cases, but, a holistic view has to be taken considering the factual matrix of each case. The consequence of reorganisation of the cadre resulted in not only a mere re-description of the post but also a much higher pay scale being granted to the appellants based on an element of selection criteria. We say so as, at the threshold itself, there is a requirement of a minimum 5 years of service. Thus, all Telephone Operators would not automatically be eligible for the new post. Undoubtedly, the financial emoluments, as stated above, are much higher. The third important aspect is that the appellants had to go through the rigours of a specialised training. All these cannot be stated to be only an exercise of merely re-description or reorganisation of the cadre. On applying the test in BSNL case [BSNL v. R. Santhakumari Velusamy, (2011) 9 SCC 510 : (2011) 2 SCC (L&S) 496] , as per*



WEB COPY



W.P.No.39539 of 2025

sub-para (i) of para 29, promotion may include an advancement to a higher pay scale without moving to a different post. In the present case, there is a re-description of the post based on higher pay scale and a specialised training. It is not a case covered by sub-para (iii), as canvassed by the learned counsel for the appellants, where the higher pay scale is available to everyone who satisfies the eligibility condition without undergoing any process of selection. The training and the benchmark of 5 years of service itself involve an element of selection process. Similarly, it is not as if the requirement is only a minimum of 5 years of service by itself, so as to cover it under sub-para (iv).

7. Relying on the above judgment, the learned counsel for the petitioners would contend that the respondent has availed the benefit of re-upgradations on different dates and she was allowed to retire from service on attaining the age of superannuation on 31.03.2014 and therefore, the CAT has committed an error in not considering the clarification as well as the ratio laid down by the Hon'ble Apex Court in the judgment cited supra.

8. Smt.R.Sundarammal/respondent, who appeared in person



W.P.No.39539 of 2025

would articulate her case by stating that the CAT elaborately discussed the issues in the context of the ACP/MACP Scheme. The upgradation is only rationalisation of cadre and therefore, would not fall under the ACP/MACP scheme. Rationalisation of cadres in the Government of India Organisation could not be treated as upgradation/promotion and therefore, the CAT has rightly approached the issues and allowed the application and the present writ petition is to be rejected.

9. Party-in-person would rely upon the orders passed in favour of **Ratanakar** and would submit that she is also a similarly placed employee. When she had given the benefit of upgradation under the ACP/MACP scheme, the said benefit was rightly extended by the CAT and thus, the said order is to be upheld. She would further contend that the benefit of ACP scheme, during the relevant point of time, also was not granted on completion of 12 years of service, despite the fact that she was fully qualified during the relevant point of time.

10. This Court has considered the rival submissions made between the parties to the lis on hand.

11. The CAT has rightly framed the issues with reference to the relief sought for in the Original Application which reads as under:

*Whether upgradation on mergers/
recommendations of Pay Commissions or Committees*



*is to be considered as promotion/financial upgradations
for the purpose of ACP/MACP?*

WEB COPY

12. To decide the issue, it would be relevant to consider the basic facts. The uncontroverted facts between the parties are that the respondent was appointed as Librarian on 16.06.1980. She was promoted to the post of Senior Librarian on 10.07.1989. On account of rationalisation of cadres in Indian Council of Medical Research, the post of librarian was upgraded as Librarian and Information Officer and the respondent who was holding the post of Senior Librarian was upgraded to the post of Librarian and Information Officer with effect from 13.06.2000. However, she was retrospectively granted the benefit of upgradation to the said post with effect from 10.07.1997. Subsequently, the respondent was posted to the higher level category of Senior Librarian and Information Officer. It is not in dispute that the post of Senior Librarian and Information Officer carry higher grade pay than that of the grade pay attached to the post of Librarian and Information Officer.

13. The respondent admittedly, was holding the post of Senior Librarian and Information Officer with effect from 08.04.2010. Thereafter, she retired from service on 31.03.2014.

14. In the above background, let us consider the issue whether the rationalisation and upgradation of posts along with the higher scale of



pay granted to the respondent can be construed as upgradation under ACP/MACP scheme.

WEB COPY

15. MACPs for Central Civilian employees were implemented pursuant to the recommendations of the VI Central Pay Commission vide Office Memorandum dated 19.05.2009 issued by Government of India, Ministry of Personnel Public Grievance and Pension Department. The very concept of upgradation under the ACP/MACP was recommended by the Pay Commission to encourage the employees who are all stagnated in the same cadre for more than 12 years and 24 years under ACP scheme and 10 years, 20 years and 30 years under MACP Scheme. To ensure that the employees stagnated in the same cadre for more number of years get higher scale of pay, which is equivalent to that of the promotional scale or to the higher scale of pay. The scheme is a concession extended for the benefit of the employees and to encourage them for better performance of public duties. The ACPs/MACPs are to be therefore, granted scrupulously in terms of the conditions stipulated under the Scheme. ACP contemplates whenever an employee has completed 12 years of continuous service in the same grade, financial upgradation will be available to the next higher grade pay. If such an employee completes 24 years of service, then he/she will get second financial upgradation in the next higher grade pay. So also under the MACP Scheme, to grant three financial upgradations under the MACPs



at intervals of 10, 20 and 30 years of continuous regular service is to be taken into consideration. A Screening Committee is constituted in each Department to consider the case for grant of financial upgradation under the MACP scheme. The procedures are also contemplated.

16. A doubt arose in various establishment sections of the Government of India Departments, whether the upgradation of posts shall be considered as upgradation/promotion for the purpose of grant of ACP/MACP under the scheme. Since doubts are raised by the Departments and to clear the ambiguity and doubts, Union of India had issued several clarifications, including Office Memorandum No.35034/1/97/Estt(D)(Vol.IV) dated 18th July 2001. The relevant portion at Clarification 35 reads as under:

35	Whether placement/appointment in higher scales of pay based on the recommendations of the pay commissions of committees set up to rationalize the cadres is to be reckoned as promotion/ financial upgradation and offset against the two financial upgradation applicable under the ACP Schemes?	Where all the posts are placed in a higher scale pay, with or without a change in the designation; without requirement of any new qualification for holding the post in the higher grade, not specified in the recruitment rules for the existing post and without involving any change in responsibilities and duties then placement of all the incumbents against such upgraded posts is not be treated as promotion/ upgradation. Where, however, regularization of restructuring involves creation of a number of new hierarchical grades in the rationalized set up and some of the incumbents in the pre-rationalised set up placed in the hierarchy of the restructured set up in a grade higher than the normal
----	---	---



corresponding level taking into consideration their length of service in existing pre-structured / pre-rationalised grade, then this will be taken as promotion/upgradation.

If the rationalized/ restructured grades required possession of a specific nature of qualification and experience not specified for the existing posts in pre-rationalised set up, and existing incumbents in pre-rationalised scales/pre-structured grades, who are in possession of the required qualification/ experience are placed directly in the rationalized upgraded post, such placement will also not be viewed as promotion/ upgradation. However, if existing incumbents in the pre-rationalised grades who do not possess the said qualification/ experience are considered for placement in the corresponding rationalized grade only after completion of specified length of service in the existing grade, then such a placement will be taken as promotion upgradation.

Where placement in a higher grade involves assumption of higher responsibilities and duties then such upgradation will be viewed as promotion/ upgradation.

Where only a part of the posts are placed in a higher scale and rest are retained in the existing grade, thereby involving redistribution of posts, then it involves creation of another grade in the hierarchy requiring framing of separate recruitment rules for the upgraded Posts. Placement of existing incumbents to the extent of upgradations involved, in the upgraded post will also be treated as promotion/ upgradation and offset



		against entitlements under the ACPS. For any doubts in this regard, matter should be referred to the Department of Personnel and Training (Establishment 'D' Section) giving all relevant details.
--	--	--

17. A close reading of the above clarification issued by the Government of India would show that if the existing incumbents in the pre-rationalised grades who do not possess the qualification/experience to be considered for placement in the correspondence rationalised grade only after completion of specified rank of service in the existing grade, then such a placement shall be taken as promotion/upgradation.

18. There is no ambiguity that the financial upgradations granted during re-categorisation of cadre is also to be taken into consideration as upgradation under the ACP/MACP scheme. If those financial upgradations are not taken into consideration, then it will result in granting additional financial upgradations over and above the three financial upgradations already conferred under ACP/MACP which would result in unjust gain to an employee. The purpose and object of ACP/MACP is to ensure that the employees stagnated in the same post for 10 years 20 years and 30 years in regular service are granted next higher grade pay and that being the objects of the Scheme, the financial upgradation if granted due to recategoration of cadre, on complying with the essential qualification, would also to be taken into consideration for



W.P.No.39539 of 2025

the purpose of calculating the upgradation for grant of further upgradation under ACP/MACP scheme.

WEB COPY

19. In the present case, the respondent was promoted to the post of Senior Librarian on 10.07.1989. She got first financial upgradation on account of re-categorisation of cadre from Senior Librarian to Librarian and Information Officer with effect from 10.07.1997 on completion of 8 years of service, which is the requisite qualification for upgradation to the cadre of Librarian and Information officer. Therefore, the financial upgradation granted to the respondent is to be treated as an upgradation/promotion. The respondent was further granted second financial upgradation to the post of Senior Librarian and Information Officer with effect from 08.04.2010. In a nutshell, first promotion to the post of Senior Librarian was granted with effect from 10.07.1989, second upgradation was granted on account of re-categorisation of cadre from Senior Librarian to Librarian cum Information Officer with effect from 10.07.1997 and third financial upgradation by posting her to the post of Senior Librarian and Information Officer with effect from 08.04.2010. Therefore, the respondent cannot be construed as an employee stagnated. She got periodical financial upgradations on account re-categorisations of cadre and as per the clarification issued by the Government of India, vide Office Memorandum dated 18.07.2001, such upgradations, on account of re-categorisation of posts and financial



W.P.No.39539 of 2025

upgradations granted is also to be construed as upgradation/promotion and that being the factum established, this Court is of the considered view that the CAT has not considered the clarification issued by the Government of India in the matter of grant of financial upgradation under ACP/MACP Scheme. Since the clarification was not considered by the CAT, the same resulted in allowing the claim of the respondent, which would result in grant of additional benefit over and above the eligibility of an employee, which is impermissible under law.

20. For all these reasons, the impugned order passed by the Central Administrative Tribunal in O.A.No.310/00417/2014 dated 11.02.2025 is set aside and the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (C.K.,J.)
04.12.2025

vsi
Index : Yes
Speaking order : Yes

To

The Central Administrative Tribunal,
High Court Madras



WEB COPY



W.P.No.39539 of 2025

S.M. SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

vsi

W.P.No.39539 of 2025

04.12.2025