

CWP No.25886 of 2016

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.25886 of 2016
Date of decision: 14.12.2016

Union of India and others

....Petitioners

Versus

Central Administrative Tribunal, Chandigarh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. Vivek Singla, Advocate, for the petitioners.

RAMENDRA JAIN

By way of present writ petition filed under Articles 226/227 of the Constitution of India, petitioners have prayed for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 11.09.2015 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench (for short 'the Tribunal'), whereby petitioners have been directed to pass necessary orders re-fixing the pay of respondents No.2 to 4 w.e.f. 01.08.1999 for grant of ACP along with consequential benefits.

2. Put pithily, respondents No.2 to 4 (for short 'the respondents') were appointed as Motor Trolley Drivers in the pay scale of ₹ 260-400 with the petitioners-department in the year 1984. On 11.11.1988, 05.12.1996 and 09.04.2001 policy letters were issued. Vide letter dated 10.02.2006, the date of implementation of the policy letter dated 09.04.2001 was changed to 01.08.1993 instead of 05.12.1996, as indicated earlier. The respondents

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pay scale of ₹ 3050-4590. In the year 2002, the respondents were called by the petitioners for the trade test for the post of CMD-II. They were declared pass as per PTO and entries to this effect were made in the services books of the said respondents. In the year 2008 again the respondents were called for trade test for the post of CMD-II and were again declared pass. They were re-designated as CMD (OG) w.e.f. 19.09.2008 and were promoted as CMD-II w.e.f. 19.9.2008 in the pay scale of ₹ 5200-20200 + Grade Pay of ₹ 4200. Pursuant to MACP Scheme, the respondents were granted MACP on 15.06.2013 in the pay scale of ₹ 5200-20200 + Grade Pay of ₹ 2800. However, the same was cancelled vide letter dated 28.02.2014 on the ground that at the relevant time, the respondents were working as MT Drivers, therefore, they were not entitled to the benefit of the Scheme. Against the action of the petitioners, respondents approached the Tribunal. The Tribunal vide order dated 11.09.2015 (Annexure P-1) directed the petitioners to pass orders re-fixing the pay of the respondents w.e.f. 01.08.1999 for grant of ACP along with consequential benefits within a period of six weeks from the date of receipt of the said order. Hence, this writ petition.

3. We have heard learned counsel for the petitioners and perused the record.

4. Admittedly, the respondents were appointed as Motor Trolley Drivers in the year 1984. They were promoted as CMD-II in the year 2008. They did not get any promotion till 1999 when the ACP Scheme came into effect. Therefore, the respondents are entitled to 1st ACP w.e.f. 01.08.1999.

The petitioners have rightly been directed to re-fix the pay of the

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respondents w.e.f. 01.08.1999. The relevant conclusion recorded by the Tribunal reads thus: -

“9. We have given our careful consideration to the matter. From the material on record, it is clear that the applicants who joined service as Motor Trolley Drivers have been re-designated as CMD(OG) and CMD-II much after 1999 and after trade test was held for the first time in 2002 and the applicants passed the same. Regarding non-allowance of first upgradation under the ACP Scheme, the respondents have merely stated that the matter was referred to PCDA(WC) Chandigarh, but was returned with the remarks that the ACP Scheme was not applicable to the drivers. No reply has been filed on behalf of respondent No.5, PCDA Western Command Chandigarh and hence, it is not understood why the case of the applicants for grant of first ACP was rejected although the applicants have been working as Civilian Motor Drivers from 1984 onwards and had not got any promotion till 1999 when the ACP Scheme came into effect. The trade test was held for the applicants for the first time in 2002 and the applicants passed the same. It was only thereafter that some of the Drivers were promoted as CMD-II in 2002 under 30% promotion quota. **Mohan Lal, Darshan Singh & Dharam Pal** (supra) and **Balkaran Singh** (supra) are relevant to the claim of the applicants. Hence, we conclude that the applicants are entitled to 1st ACP w.e.f. 1.9.1999. Further, some of the CMDs were promoted as CMD-II w.e.f. 19.09.2008 in the pay scale of Rs.5200-20,200+Grade Pay of Rs.2400. Having got only one promotion during their service, they would also be entitled to 3rd MACP on completion of 30 years

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of service. This relief has apparently been allowed as has been conveyed vide letter dated 25.08.2015 placed on record.

10. Hence, it is only the issue regarding grant of ACP to the applicants that remains pending. Respondents are directed to pass necessary orders refixing the pay of the applicants w.e.f. 01.08.1999 within a period of six weeks from the date of a certified copy of this order, being served upon the respondents. Consequential benefits may also be released to the applicants within a further period of six weeks.”

5. No illegality or perversity could be shown which may warrant interference by this Court.

6. Dismissed.

(RAMENDRA JAIN)
JUDGE

December 14, 2016
R.S.

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No