

**RA-CW No.100 of 2017 in
CWP No.10866 of 2014**

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**Sr. No. 237
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RA-CW No.100 of 2017 in
CWP No.10866 of 2014
Date of Decision: 25.02.2019**

Uttam Singh

... Applicant

Versus

Union of India and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Puneet Jindal, Senior Advocate with
Mr. Vikas Chatrath, Advocate,
for the applicant/respondent No.1-Railways.

Mr. R.S.Dadwal, Advocate,
for the non-applicant/petitioner.

ARUN MONGA, J.(ORAL)

This application has been filed by the respondent-
Union of India to review the judgment dated 11.07.2016 passed in
CWP No.10866 of 2014.

2. The review of the order/judgment dated 11.07.2016,
ibid has been sought on the ground that, while filing the short
affidavit to the writ petition, a wrong stand had been taken by the
respondents to the effect that pay scale of Rs.4000-6000/- and
Rs.4500-7000/- of 5th Central Pay Commission had merged in Pay
Band-I (Rs.5200-20200/-) with a common Grade Pay of Rs.2800/- on
implementation of the recommendation of the 6th Central Pay
Commission. Accordingly, it was stated in the short reply that
petitioner would be entitled for grant of financial up-gradation to
Pay Band-I (9300-34800/-) with Grade Pay of Rs.4600/-.

3. It would be instructive to reproduce the order/judgment dated 11.07.2016 before proceeding further in the matter.

“In the present petition, petitioner has sought for a direction to the respondents to grant him the 3rd financial upgradation under MACP Scheme in the pay scale of Rs.9300-34800 with Grade Pay of Rs.4600/- w.e.f. 1.9.2008. Respondents have filed statement of objections in which it is stated as follows:-

“The matter as to whether financial upgradation in Pay Band of Rs.9300-34800 with Grade Pay of Rs.4600/- is admissible to the petitioner namely Sh. Uttam Singh, was under active consideration and it has been decided that as the pay scales Rs.4000-6000 and Rs.4500-7000 of Vth CPC have been merged in Pay Band-1 (Rs.5200-20200) with a common Grade Pay of Rs.2800/- in VIth CPC, Sh. Uttam Singh (the petitioner) is admissible for the grant of financial up-gradation to Pay Band-1 (Rs.9300-34800) with Grade Pay of Rs.4600/-. He is therefore, being granted said benefit of financial up-gradation in Pay Band Rs.9300-34800 with Grade Pay of Rs.4600/-.”

2.) The statement of objection was filed on 18.1.2016. Thereafter, the petitioner has not been extended the 3rd financial upgradation pay under MACP i.e. arrears of pay etc. Since the respondents have admitted that the petitioner is entitled for 3rd financial upgradation under MACP Scheme, it is only calculation of arrears and disbursement of the same along with the consequential benefit which stands to be paid, if any. The respondents are directed to extend the admitted 3rd financial upgradation under MACP Scheme to the petitioner within a period of three months from today.

The petitioner is also entitled for interest on the arrears of amount @ 6% per annum. The same shall be settled within a period of three months from today.

3.) *Petition stands disposed of.”*

4. A perusal of the above order reflects that indeed stand has been taken by the respondents to the effect that petitioner is entitled for the grant of financial up-gradation to Pay Band-I (9300-34800/-) with Grade Pay of Rs.4600/-. However, such stand, to my mind, does not seem to have been taken erroneously if the same is read along with the positive averments made in para 6 of the writ petition. The relevant extract whereof is reproduced hereinbelow:-

“That in view of position explained in para 3 and 4 above petitioner requested the respondents that the above benefit of granting the pay scale of Rs.9300-34800/- + Grade Pay of Rs.4200/- may be considered as 2nd financial up-gradation and he be given 3rd financial up-gradation under MACP scheme in the pay scale of Rs.9300-34800/- + Grade Pay of Rs.4600/- w.e.f. 01.09.2008.”

5. Further more, the above stand of the applicant/respondents is also the pleaded by the petitioner more elaborately in para 11 of the writ petition. The relevant thereof is reproduced hereinbelow:-

“Therefore, in view of the above petitioner requested the respondents that the above benefit of granting the pay scale of Rs.9300-34800/- Grade Pay of Rs.4200/- may be considered as 2nd Financial up-gradation and he be given 3rd financial up-gradation under MACP scheme in the pay scale of Rs.9300-34800/-

+ Grade Pay of Rs.4600/- w.e.f. 01.09.2008. But till date the respondents are sitting tight over the matter and not releasing the rightful benefit due to the petitioner in an illegal and arbitrary manner.”

6. Confronted with the above situation, learned Senior counsel for the review applicant contends that the petitioner is not entitled to grant of Grade Pay of Rs.4600/- as against Rs.4200/- being in conflict with Circular dated 10.06.2009 issued by the Ministry of Railways (Annexure R-1/2).

7. Be that as it may, without going into the merits of the applicability of the Circular, *ibid* as relied upon by learned Senior counsel for the review applicant, I do not deem it appropriate to reopen the case in view of the positive averments made in the petition as noted above and a specific stand taken in the short reply of the applicant herein while replying to the said averments. The present review application, is accordingly, dismissed.

8. It is made clear that keeping in view the contention of the learned Senior counsel for the applicant/respondents that this will create difficulty in implementation of the Circular dated 10.06.2009 (Annexure R-1/2), the relief granted in the writ petition is confined only to the petitioner and shall not be treated as a precedent.

**(ARUN MONGA)
JUDGE**

25.02.2019

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No