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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 5<sup>th</sup> April, 2023*

+ W.P.(C) 13777/2021

SH PRABHAKARA RAO THANIKONDA  
& ORS.

..... Petitioners

Through: Mr. Parveen Kumar, Advocate.

versus

EXPORT INSPECTION COUNCIL  
& ORS.

..... Respondents

Through: Mr. L.R. Khatana, Advocate for  
R-1 to R-4.

Mr. Neeraj, Senior Panel Counsel with  
Mr. Sahaj Garg and Mr. Vedansh Anand,  
Advocates for R-5.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JUDGEMENT**

**JYOTI SINGH, J.**

**C.M. APPL. 45717/2022 (condonation of delay of 50 days in filing counter affidavit)**

1. Present application has been preferred on behalf of Respondents No. 1 to 4 seeking condonation of delay of 50 days in filing the counter affidavit.
2. Issue notice.
3. Mr. Parveen Kumar, learned counsel accepts notice on behalf of the Petitioners.
4. For the reasons stated in the application, the same is allowed.
5. Delay of 50 days in filing the counter affidavit is condoned.
6. Counter affidavit is taken on record.
7. Application stands disposed of.

**W.P.(C) 13777/2021**

8. By this writ petition, Petitioners assail the impugned order dated 25.05.2021, whereby Respondents No.1 and 2/Export Inspection

Council (hereinafter referred to as 'EIC') have rejected the claim of the Petitioners for grant of ACP/MACP at higher Grade Pay and from earlier dates, on the ground that the posts of Junior Scientific Assistant ('JSA') and Technical Officer ('TO') were never merged and even under the existing Export Inspection Agency (Recruitment) Rules, 1980 (hereinafter referred to as 'RRs'), they are separate posts, where JSA is the feeder post of post of TO.

9. The factual score, as per the narrative in the writ petition is:-

(a) For development of export trade through Quality Control and Inspection and for matters connected thereto, the Export (Quality Control and Inspection) Act, 1963 (hereinafter referred to as '1963 Act') was enacted and under Section 3 of the said Act, EIC was set up as a Body Corporate. Under Section 7 of the 1963 Act, in order to provide the ground machinery for quality control and inspection, Central Government established five Export Inspection Agencies (hereinafter referred to as 'EIAs') in Delhi, Mumbai, Kochi, Kolkata and Chennai, which function under the administrative control of the EIC.

(b) Petitioners were appointed in the EIAs on different dates as JSAs in the pay scale of Rs.1400-2600 (under 4<sup>th</sup> CPC) and the relevant details are as follows:-

| S. N. (1) | NAME (2)                     | Date of joining and post (Group) (3) | Corresponding 5 <sup>th</sup> Pay Commission (4) | Corresponding Pay Band and Grade as per 6 <sup>th</sup> Pay Commission (5) |
|-----------|------------------------------|--------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------|
| 1         | PRABHAKARA RAO<br>THANIKONDA | 12.11.1968<br>J.S.A. (C)             | 5000-5100                                        | 9310-34901<br>PB-2 Grade Pay :4200                                         |
| 2         | PRAKASH KUMAR                | 07.10.1965<br>J.S.A. (C)             | 5000-5100                                        | 9310-34901<br>PB-2 Grade Pay :4200                                         |
| 3         | RAM KUMAR GUPTA              | 31.10.1965<br>J.S.A. (C)             | 5000-5100                                        | 9310-34901<br>PB-2 Grade Pay :4200                                         |
| 4         | Ms. UJJWALA ER.<br>WADKE     | 05.12.1969<br>J.S.A. (C)             | 5000-5100                                        | 9310-34901<br>PB-2 Grade Pay :4200                                         |

(c) Petitioners No.1 and 2 were placed in the revised pay scale of Rs.5000-8000 under the 5<sup>th</sup> CPC, by order dated

03.03.1998 w.e.f. 01.01.1996, while Petitioner No.3 was granted the benefit vide order dated 01.10.1997 and Petitioner No.4 vide order dated 01.01.1996.

(d) Government of India, vide DoPT O.M. dated 09.08.1999 notified the Assured Career Progression Scheme ('ACP') for Central Government Civilian employees in all Ministries/Departments. ACP Scheme provides two financial upgradations, on completion of 12 and 24 years' service, in the Grade Pay in the next promotional hierarchy, subject to fulfilment of requisite norms including benchmarks for promotion to the said posts. First financial upgradation was granted to the Petitioners under the ACP Scheme as follows :-

| S. N. (1) | NAME (2)                  | Date of ACP' w.e.f (3)    | Pay Scale as per 5 <sup>th</sup> Pay Commission (4) | Corresponding Pay Band and Grade Pay as per 6 <sup>th</sup> Pay Commission (5) |
|-----------|---------------------------|---------------------------|-----------------------------------------------------|--------------------------------------------------------------------------------|
| 1         | PRABHAKARA RAO THANTKONDA | 01.04.2004<br>01.12.2000  | 5500-175-9000                                       | 9300-34800<br>PB-2 GP4200                                                      |
| 2         | PRAKASH KUMAR             | 17.10.2003/<br>09.08.1999 | 5500-175-9000                                       | 9300-34800<br>PB-2 GP4200                                                      |
| 3         | RAM KUMAR GUPTA           | 17.11.2003/<br>09.08.1999 | 5500-175-9000                                       | 9300-34800<br>PB-2 GP4200                                                      |
| 4         | Ms. UJJWALA KR. WADKE     | 01.04.2004                | 5500-175-9000                                       | 9300-34800<br>PB-2 GP4200                                                      |

(e) Petitioners were thereafter promoted as TOs from the following dates in the pay scale of Rs. 5500-9000, which was the same scale as granted to them by way of first financial upgradation under the ACP Scheme :-

| S. N. (1) | NAME (2)                  | Date of promotion to post of Technical Officer/ Years for Promotion (3) | Pay Scale as per 5 <sup>th</sup> Pay Commission (4) | Corresponding Pay Band and Grade Pay as per 6 <sup>th</sup> Pay Commission (5) |
|-----------|---------------------------|-------------------------------------------------------------------------|-----------------------------------------------------|--------------------------------------------------------------------------------|
| 1         | PRABHAKARA RAO THANTKONDA | 30.10.2002<br>(B)/13 Years                                              | 5500-175-9000                                       | 9300-34800<br>PB-2 GP4200                                                      |
| 2         | PRAKASH KUMAR             | 11.11.2002<br>(B)/17 Years                                              | 5500-175-9000                                       | 9300-34800<br>PB-2 GP4200                                                      |
| 3         | RAM KUMAR GUPTA           | 01.11.2002<br>(B)/17 Years                                              | 5500-9000                                           | 9300-34800<br>PB-2 GP4200                                                      |
| 4         | Ms. UJJWALA KR. WADKE     | 13.11.2002<br>(B)/12 YEARS                                              | 5500-9000                                           | 9300-34800<br>PB-2 GP4200                                                      |

(f) Petitioners No. 1 to 4 were promoted to the post of Assistant Director (AD) from the post of TO and placed in the

pre-revised scale Rs.8000-13500 (revised Pay Band Rs.15600-39100 with Grade Pay Rs.5400/-) as under:-

| S. N. (1) | NAME (2)                  | Date of 3 <sup>rd</sup> promotion to Asst. Director's initial service (3) | Pay Scale as per 5 <sup>th</sup> Pay Commission (4) | Corresponding Pay Band and Grade Pay as per 6 <sup>th</sup> Pay Commission (5) |
|-----------|---------------------------|---------------------------------------------------------------------------|-----------------------------------------------------|--------------------------------------------------------------------------------|
| 1         | PRABHAKARA RAO THANIKONDA | 04.03.2005<br>19 years                                                    | 8000-13500                                          | 15600-39100<br>PB-3 GP-5400                                                    |
| 2         | PRAKASH KUMAR             | 05.03.2010/<br>24 years 7 m                                               | 8000-13500                                          | 15600-39100<br>PB-3 GP-5400                                                    |
| 3         | RAM KUMAR GUPTA           | 07.01.2008/<br>22 years                                                   | 8000-13500                                          | 15600-39100<br>PB-3 GP-5400                                                    |
| 4         | Mr. LIPWATA KRL WADKE     | 24.03.2008<br>18 Years                                                    | 8000-13500                                          | 15600-39100<br>PB-3 GP-5400                                                    |

(g) DoPT notified the Modified Assured Career Progression Scheme ('MACP Scheme') vide O.M. dated 19.05.2009 effective from 01.09.2008, under which an employee is entitled to three financial upgradations on completion of 10, 20 and 30 years service, respectively.

(h) As per 6<sup>th</sup> CPC recommendations, posts in the pay scales Rs.5000-8000 and Rs.5500-9000 were to be merged with the post in pay scale Rs.6500-10500 (revised PB-2 with Grade Pay of Rs.4200/-). The hierarchy of posts in EIAs is JSA in pay scale of Rs.5000-8000 and TO in pay scale of Rs.5500-9000 and thus by virtue of para 5 of Annexure-I of MACP Scheme read with Clarificatory O.M. dated 09.09.2010 as well as Serial No.27(iii) of FAQ on MACP in DoPT O.M. dated 01.04.2011, promotion/upgradations in the pay scale of Rs.5500-9000 in the past have to be ignored for purpose of granting financial upgradations under the MACP Scheme. However, EIC did not act in consonance with these O.Ms, leading to grant of financial upgradations in lower Grade Pay. As an illustration, Petitioner No.1 was granted pay scale of Rs.5500-9000 under 1<sup>st</sup> ACP on 12.12.2000 on completion of 12 years of service and was promoted as TO in the same pay scale on 01.11.2002. On account of merger of the pay scales Rs.5000-8000 and Rs.5500-9000 into Rs.6500-10500, Petitioner No. 1 is to be treated as

having been placed in PB-2 with Grade Pay of Rs.4200/- and was, therefore, entitled for pay fixation in PB-3 with Grade Pay of Rs.5400/-, on completion of 18 years of service till his promotion on 04.03.2008 and thereafter in Grade Pay of Rs.6600/-, on completion of 20 years of service from the initial date of appointment, which has not been done.

(i) Aggrieved by non-implementation of ACP/MACP Schemes in accordance with the provisions thereof, Petitioner No. 1 made representations dated 16.06.2010, 10.01.2013, 29.09.2018, however, the grievance was not redressed, compelling the Petitioners to approach this Court.

10. Contention of the Petitioners before this Court is that the impugned decision dated 25.05.2021 is wholly illegal and arbitrary. Petitioners No. 1 to 4 are eligible for 1<sup>st</sup> ACP in the Grade Pay of Rs.5400/- in PB-3 on completion of 12 years, which was granted on completion of 16-20 years. Petitioner No. 1 is eligible for 2<sup>nd</sup> MACP in Grade Pay of Rs.6600/- in PB-3 on completion of 20 years service on 12.12.2008. Petitioners No. 2 and 3 are eligible for 2<sup>nd</sup> MACP in Grade Pay of Rs.6600/- in PB-3 on completion of 20 years counted from direct entry grade as on 01.09.2008, whereas they were granted the benefit on completion of 22 years. Petitioners No. 2 and 3 are eligible for 3<sup>rd</sup> MACP in Grade Pay of Rs.7600/- in PB-3 on 07.10.2015/31.10.2015 on completion of 30 years from the dates of their respective appointments in the direct entry grade. Petitioner No. 4 is eligible for 2<sup>nd</sup> MACP in Grade Pay of Rs. 6600/- in PB-3 on 05.12.2009, on completion of 20 years from the date of appointment.

11. It was submitted that law on grant of benefits under the ACP and MACP Schemes is now settled by the Supreme Court in *Union of India and Others v. M.V. Mohanan Nair, (2020) 5 SCC 421* and *Union of India v. R.K. Sharma and Others, (2021) 5 SCC 579* and it

is held that ACP is to be granted in the next Grade Pay in promotional hierarchy on completion of 12 and 24 years in the same Grade Pay and MACP is applicable from 01.09.2008 on completion of 10/20/30 years counted from direct entry grade in the next Grade Pay on completion of 10 years continuously in the same Grade Pay. Petitioners have not been upgraded in accordance with the Schemes and have suffered a huge monetary loss on this count, which will or has ultimately translated in reduction in their retiral benefits also.

12. Arguing on behalf of Respondents No. 1 to 4, Mr. Khatana, submits that all benefits of financial upgradation due to the Petitioners under ACP/MACP Schemes have been granted to the Petitioners and they have no cause for grievance. Petitioners No. 2 and 3 have been compulsorily retired from service under FR 56(j) while Petitioner No. 4 has taken voluntary retirement. None of them made any representation to Respondents No. 1 to 4 and directly approached this Court. Petitioner No. 1 made representations, which were rejected by the impugned order as his claim was misconceived.

13. It was contended that Petitioners claim ACP/MACP benefits on a misplaced ground of merger of the post of JSA and TO premised on the recommendations of the 6<sup>th</sup> CPC, whereas, in fact in the EIC and EIAs, these posts have neither been merged nor upgraded, which is clearly reflected from the existing RRs. Drawing the attention of the Court to a tabular representation filed by Respondents No. 1 to 4, it was urged that all the Petitioners were granted 1<sup>st</sup> ACP on completion of 12 years of service from their initial dates of appointments. Subsequently, they were promoted as TOs in pay scale Rs.5500-9000, which was the same scale in which 1<sup>st</sup> ACP financial upgradation was granted. Thereafter, Petitioners were promoted to the post of AD in pay scale Rs.8000-13500, revised to PB-3 with Grade Pay of Rs.5400/- under 6<sup>th</sup> CPC and placed in Level-10 under 7<sup>th</sup> CPC. Since

Petitioners have received benefits of 1<sup>st</sup> financial upgradation under ACP and thereafter promotion to the post of AD, ignoring the promotion to the post of TO, which was in the same scale as 1<sup>st</sup> ACP, Petitioners were granted 3<sup>rd</sup> MACP on completion of 30 years from the entry grade and no infirmity can be found with the action of the answering Respondents.

14. I have heard the learned counsels for the parties and examined the aforesaid contentions.

15. Grievance of the Petitioners pertains to alleged erroneous fixation of their pay under the ACP and MACP Schemes and is primarily hinged on the merger of posts as per recommendations of the 6<sup>th</sup> CPC, CCS (Revised Pay) Rules, 2008, MACP Scheme introduced by the Government of India vide O.M. dated 19.05.2009 and made operational from 01.09.2008, more particularly, paragraph 5 of Annexure-I to the MACP Scheme which provides that promotions earned/upgradations granted under the ACP Scheme in the past to those grades which now carry the same Grade Pay due to merger of pay scales/upgradation of posts recommended by 6<sup>th</sup> CPC shall be ignored as well as DoPT O.M. dated 09.09.2010. To understand the methodology of pay fixation under the ACP/MACP Schemes, post merger of the posts, it would be useful to refer to 'Illustration-1' provided under para 5, aforementioned, which reads as follows:-

**"Illustration-1**

*The pre-revised hierarchy (in ascending order) in a particular organization was as under:-*

*Rs. 5000-8000, Rs. 5500-9000 & Rs. 6500-10500.*

*(a) A Government servant who was recruited in the hierarchy in the pre-revised pay scale Rs. 5000-8000 and who did not get a promotion even after 25 years of service prior to 1.1.2006, in his case as on 1.1.2006 he would have got two financial upgradations under ACP to the next grades in the hierarchy of his organization, i.e., to the pre-revised scales of Rs. 5500-9000 and Rs. 6500-10500.*

*(b) Another Government servant recruited in the same hierarchy in*

*the pre-revised scale of Rs. 5000-8000 has also completed about 25 years of service, but he got two promotions to the next higher grades of Rs. 5500-9000 & Rs. 6500-10500 during this period.*

*In the case of both (a) and (b) above, the promotions/ financial upgradations granted under ACP to the pre-revised scales of Rs. 5500-9000 and Rs. 6500-10500 prior to 1.1.2006 will be ignored on account of merger of the pre-revised scales of Rs. 5000-8000, Rs. 5500-9000 and Rs. 6500-10500 recommended by the Sixth CPC. As per CCS (RP) Rules, both of them will be granted grade pay of Rs. 4200 in the pay band PB-2. After the implementation of MACPS, two financial upgradations will be granted both in the case of (a) and (b) above to the next higher grade pays of Rs. 4600 and Rs. 4800 in the pay band PB-2."*

16. Pithily put, Petitioners claim that pursuant to 6<sup>th</sup> CPC recommendations, posts in pre-revised scales of Rs.5000-8000 and Rs.5500-9000 were merged into the post in Rs.6500-10500 (revised PB-2, Grade Pay Rs.4200/-) and overlooking this crucial fact, Respondents No. 1 to 4 have incorrectly granted the financial upgradations under the MACP Scheme, which has resulted in financial loss in salaries and subsequently, in the retrial benefits. Therefore, foundation of the argument of the Petitioners is merger of posts of JSA and TO, which position is emphatically denied by Respondents No. 1 to 4.

17. In order to avail the benefit of the DoPT O.Ms, as aforementioned and succeed in the writ petition, Petitioners were required to demonstrate that the two posts i.e. JSA in pre-revised scale of Rs.5000-8000 and TO in the scale of Rs.5500-9000 were merged, which the Petitioners have failed to establish. On the contrary, Respondents No.1 to 4 have taken a categorical position in the counter affidavit in support of the impugned order that EIC is an Autonomous Body established under Section 3 of the 1963 Act and by virtue of Section 7 the Central Government, by Notification in the Official Gazette, has established EIAs in different parts of the country, which function under the overall control and supervision of EIC. Ministry of Commerce and Industry, Department of Commerce, Government of

India is the administrative Ministry of EIC. Section 17 of the 1963 Act empowers the Central Government to make Rules, by Notification in the Official Gazette, to carry out purposes of the Act and in exercise of the said power, Central Government has *inter alia* framed the RRs. The RRs are therefore statutory in nature and even under the existing RRs, post of JSA is the feeder post for promotion to the post of TO which, in turn, is the feeder post for promotion as AD. The posts are in the cadre hierarchy and pay fixation is under FR 22 (I)(a)(1), on promotion from one post to the other. It is categorically stated that in EIC/EIAs there has been no merger or upgradation of posts and that the Government Rules, instructions, O.Ms, etc. including recommendations of Central Pay Commissions are not *ipso facto* applicable to EIC/EIAs. Being an autonomous organization it was open to EIC to adopt or not to adopt the 6<sup>th</sup> CPC recommendations, including merger of posts. Relevant para of the counter affidavit is as follows:-

*"3. That Section 17 of the Act empowers the Central Government to make rules, by notification in the Official Gazette, to carry out the purposes of the Act and in exercise of the said power the Central Government has, inter alia, made the Export Inspection Agency (Recruitment) Rules, 1980 (hereinafter referred to as the "Recruitment Rules"), a true copy of the relevant extracts of which is annexed hereto and marked as Annexure-R1. It is relevant to mention that the recruitment rules are statutory in nature and under the said rules the posts of Junior Scientific Assistant is the feeder cadre for promotion to the post of Technical Officer and the post of Technical Officer is in the feeder cadre for promotion to the post of Assistant Director and thus these posts in the same hierarchy and as mention above promotion is made from one to the other. It is also important to mention that the pay of the petitioners was fixed under FR 22 (I) (a)(1), which is the rule of fixation of pay on promotion to the next higher post in the hierarchy. **It is also relevant to point out that in the EIC/EIAs there has not been any merger or upgradation of posts. Therefore, the writ petition is based on the misleading grounds relying on the government rules which are not applicable to the answering respondents or its employees. It is also relevant to mention that the Government rules, instructions etc., and the recommendations of the Central Pay Commissions are not per se applicable to the EIC/ EIAs unless the same are adopted or made specifically applicable to these bodies or its employees.**"*

18. Respondents No.1 to 4 have also placed on record the RRs, as amended upto 31.12.1986, to support the stand that the post of TO is filled 50% by promotion and 50% by direct recruitment. For promotion, the feeder cadre comprises of Junior TO/JSA with three years' experience in the respective field. On a pointed query to the counsel for Respondents No.1 to 4, it was stated that there has been no amendment to the Rules and the RRs placed on record are the existing and applicable RRs. It would also be pertinent to mention that Petitioner No.1 has himself admitted in the representation dated 16.06.2010 that there has been no merger in the EIC. Once Respondents No. 1 to 4 have taken a position on affidavit that there has been no merger of the posts in the pay scales of Rs.5000-8000 and Rs.5500-9000 and there is no material placed on record by the Petitioners to show to the contrary, there is no reason for this Court to disbelieve the stand, more particularly, when the existing RRs are on record which fortify the stand of Respondents No. 1 to 4. It is a settled law that pay structures, hierarchy of promotion etc. are all matters in the domain of the employer and it is not for this Court to interfere and lay down the pay structures, much less interfere with the policy as to whether certain posts have to be merged or not as even according to recommendations of 6<sup>th</sup> CPC, merger was to be carried out on functional considerations. Being an autonomous organisation, EIC has the autonomy to adopt or not to adopt the 6<sup>th</sup> CPC recommendations with respect to the merger of posts in certain pay scales and it is neither for the Petitioners to dictate Respondents No. 1 to 4 to necessarily adopt those recommendations nor can this Court issue a mandamus to that effect.

19. In view of the aforesaid stand on an affidavit filed by Respondents No.1 to 4 that there was no merger of the posts in question, benefit of para 5 of Annexure-I of MACP Scheme and/or

clarifications in the relevant FAQs cannot be of any avail to the Petitioners. Illustration-1 to para 5 of Annexure-I of MACP Scheme, as extracted hereinabove reflects that promotion/financial upgradations granted under ACP to pre-revised scales of Rs.5500-9000 prior to 01.01.2006 are to be ignored when there is a merger of the pre-revised scales of Rs.5000-8000 and Rs.5500-9000 and both were placed in Grade Pay of Rs.4200/- in PB-2. Therefore, going by the illustration which explains the intent and purpose of para 5, in the absence of the merger in EIC/EIAs, no relief can be granted to the Petitioners.

20. For the sake of completeness and better clarity, I may refer to a tabular statement, filed by Respondents No.1 to 4 along with the counter affidavit, demonstrating the promotions and financial benefits under the ACP/MACP Schemes, granted to the Petitioners from time to time, as follows :-

| <b>PRABHAKAR RAO (Petitioner No. 1)</b> |                                                                                                                                                                        |
|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Dates</b>                            | <b>Particulars</b>                                                                                                                                                     |
| 12-12-1988                              | Joined as JSA at Pilot Test House, Mumbai in the pay scale of Rs. 1400-40-1600-50-2300-EB-60-2600/-                                                                    |
| 03-03-1998                              | Consequent upon implementation of 5 <sup>th</sup> CPC, pay scale was revised to Rs. 5000-150-8000 and pay fixed at Rs. 5300 w.e.f. 01-01-1998.                         |
| 12-12-2000                              | First ACP granted in the Pay scale of Rs. 5500-175-9000, pay fixed at Rs. 6375 w.e.f. 12-12-2000 as per Office Order dated 05-01-2004.                                 |
| 01-11-2002                              | Promoted to the post of <b>Technical Officer</b> in the pay scale of Rs. 5500-175-9000/- and pay fixed at Rs. 6550/- per month w.e.f. 01-11-2002.                      |
| 04-03-2008                              | Promoted to the post of <b>Assistant Director</b> in pay scale of Rs. 8000-275-13500 vide EIC order dated 29-02-2008 and pay fixed at Rs. 8000/-.                      |
| 22-10-2008                              | Consequent on the recommendation of the 6CPC, vide EIC O.M. dated 22-10-2008, his pay has been fixed in the Pay Band PB3Rs. 15600-39100+GP Rs. 5400 w.e.f. 04-03-2008. |
| 01-09-2017                              | On implementation of 7 <sup>th</sup> CPC, Pay fixed at Rs. 67000/- in Level 10 w.e.f. 01-01-2016                                                                       |
| 04-03-2018                              | 3 <sup>rd</sup> MACP granted in Level 11 (Pay Scale 67700-208700 as per 7CPC) w.e.f. 04-03-2018 vide order dated 06-04-2022.                                           |
| 04-05-2022                              | Promoted to the post of <b>Deputy Director</b> in the Pay Matrix Level 11 (Rs. 67700-208700) w.e.f. 04-05-2022 vide order dated 07-04-2022                             |
| <b>PRAKASH KUMAR (Petitioner No. 2)</b> |                                                                                                                                                                        |

| Dates                                     | Particulars                                                                                                                                                       |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 07-10-1985                                | Joined as JSA at EIA-Mumbai in the pay scale of Rs. 1400-40-1600-50-2300-EB-60-2600/-                                                                             |
| 03-03-1998                                | Consequent upon implementation of 5 <sup>th</sup> CPC, pay scale revised to Rs. 5000-150-8000 and pay fixed at Rs. 5750 w.e.f. 01-01-1996.                        |
| 09-08-1999                                | 1 <sup>st</sup> ACP was granted in the Pay Scale of Rs.5500-9000 and pay was fixed at Rs.6375/-                                                                   |
| 11-11-2002                                | Promoted to the post of <b>Technical Officer</b> , in the pay scale of Rs. 5500-175-9000/- and pay fixed at Rs. 7075/-                                            |
| 01-07-2007                                | Pay fixed in PB-2 Rs. 9300- 34800 + GP 4200 at Rs. 14570 + GP 4200/- as per 6 <sup>th</sup> CPC                                                                   |
| 05-03-2010                                | Promoted to the post of <b>Assistant Director</b> in PB3 Rs. 15600-39100 + GP 5400 vide EIC order dated 26-02-2010 and pay fixed at Rs. 21860/- w.e.f. 08-03-2010 |
| 07-10-2015                                | 3 <sup>rd</sup> MACP granted in PB3 Rs.15600-39100 with Grade Pay of Rs.6600/-                                                                                    |
| 01-09-2017                                | On implementation of 7 <sup>th</sup> CPC, Pay has been fixed in Level 10 w.e.f. 01-01-2016                                                                        |
| 15.02.2018                                | Compulsory retired from his services as per the order no. EUC/D(Q/C)148/FR56(J)/A/2017-18/5310 dated 15.02.2018                                                   |
| <b>RAM KUMAR GUPTA (Petitioner No. 3)</b> |                                                                                                                                                                   |
| Dates                                     | Particulars                                                                                                                                                       |
| 31.10.1985                                | Joined as JSA on 31 Oct 1985 at EIA-Mumbai in the pay scale of Rs.425-15-500-EB-15-560-20-700-EB-20-800                                                           |
| 01.10.1986                                | Consequent upon implementation of 4 <sup>th</sup> CPC, pay scale revised to Rs. 1400-40-1600-50-2300-                                                             |

**UJJWALA WADKE**

|                                         | EB-60-2600 and Pay fixed at Rs. 1400 w.e.f. 01-01-1986.                                                                                                                                                     |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01.10.1997                              | Consequent upon implementation of 5 <sup>th</sup> CPC, pay scale revised to Rs.5000-1500-8000 and Pay fixed at Rs. 5750/-w.e.f. 01-01-1996.                                                                 |
| 01.11.2002                              | Promoted to the post of <b>Technical Officer</b> , in the pay scale of Rs. 5500-175-9000/- and pay fixed at Rs. 7075/- per month w.e.f. 01-11-2002.                                                         |
| 05.01.2004                              | First ACP granted in the Pay scale of Rs. 5500-175-9000, pay fixed at Rs.6550/-w.e.f. 01-10-1999 as per Office Order dated 05-01-2004.                                                                      |
| 02.01.2008                              | Promoted to the post of <b>Assistant Director</b> in pay scale of Rs. 8000-275-13500 vide EIC order dated 2-01-2008 and pay fixed at Rs. 8275/- w.e.f. 07-01-2008.                                          |
| 01.07.2008                              | Consequent on the recommendation of the 6 <sup>th</sup> pay commission, vide EIC O.M. dated 22-10-2008, his pay was fixed at Rs. 21870/- in the Pay Band PB3 Rs. 15600-39100+GP Rs. 5400 w.e.f. 01-07-2008. |
| 26.12.2016                              | 3 <sup>rd</sup> MACP granted in the Pay Band PB3 Rs. 15600- 39100+ GP Rs 6600/-, pay fixed at Rs.29810/- w.e.f. 01-07-2016                                                                                  |
| 27.07.2017                              | Consequent on the recommendation of the 7 <sup>th</sup> pay commission, vide EIC O.M. dated 27-07-2017, pay fixed at Rs.76200/- in the Pay level 11 w.e.f. 01-01-2016                                       |
| 31.07.2018                              | Retired under Rule 56 (j) on 31 <sup>st</sup> July 2018                                                                                                                                                     |
| <b>UJJWALA WADKE (Petitioner No. 4)</b> |                                                                                                                                                                                                             |
| Dates                                   | Particulars                                                                                                                                                                                                 |

|            |                                                                                                                                                                                             |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 05-12-1989 | Smt. Ujwala K Wadke, JSA was appointed in the post of JSA Pay Scale Rs. 1400-40-1600-50-2300-EB-60-2600- (PB Rs. 1400/- at Pilot Test House-Mumbai vide Appointment letter dated 08-11-1989 |
| 01-1-1996  | Consequent upon implementation of 5 <sup>th</sup> Pay Commission the scale of pay has been revised to Rs. 5000-150-8000 and pay was fixed at Rs. 5300/- w.e.f. 01-01-1996.                  |
| 05-12-2001 | First ACP granted in the Pay scale of 5500-175-9000, pay fixed at Rs. 6375.                                                                                                                 |
| 13-11-2002 | Appointed on promotion to the post of <b>Technical Officer</b> in Pay Scale Rs. 5500-175-9000/- and pay fixed at Rs. 6375/-                                                                 |
| 29-02-2008 | Promoted to the post of <b>Assistant Director</b> in the pay scale of Rs. 8000-275-13500/-                                                                                                  |
| 22-12-2008 | Consequent on the acceptance of 6 <sup>th</sup> Pay commission the scale has been revised in Pay Band PB-3 Rs. 15600- 39100 + GP 5400 w.e.f. 01-01-2006 as per EIC order dated 22-12-2008.  |
| 01-09-2017 | On implementation of 7 <sup>th</sup> CPC, Pay fixed at Level 10, Rs. 67000/- w.e.f. 01-01-2016                                                                                              |
| 03-07-2018 | Voluntary Retired from service as Assistant Director (T).                                                                                                                                   |

21. Having carefully perused the aforesaid statements, this Court does not find any anomaly in grant of financial upgradations to the Petitioners under ACP/MACP Schemes. Illustratively, the case of Petitioner No.1/Shri Prabhakara Rao Thanikonda can be examined in order to test the respective stands of the rival parties. Petitioner No.1 joined as JSA on 12.12.1988 in pay scale Rs.1400-2600. The pay scale was revised to Rs.5000-8000 w.e.f. 01.01.1996 under 5<sup>th</sup> CPC. First ACP upgradation was granted in the scale of Rs.5500-9000 w.e.f. 12.12.2000 on completion of 12 years regular service counted from 12.12.1988. He was promoted to the post of TO on 01.11.2002 and since the post carried the pay scale of Rs.5500-9000, there was no change in the pay scale. Petitioner No.1 was promoted to the next post of AD in the hierarchy w.e.f. 04.03.2008 in the scale of Rs.8000-13500, which was revised to PB-3 (Rs.15600-39100) with Grade Pay of Rs.5400/- w.e.f. 04.03.2008 and finally fixed in Level-10 under 7<sup>th</sup> CPC w.e.f. 01.01.2016. Since the posts of JSA and TO were never merged by Respondents No.1 to 4, promotion to the post of AD was

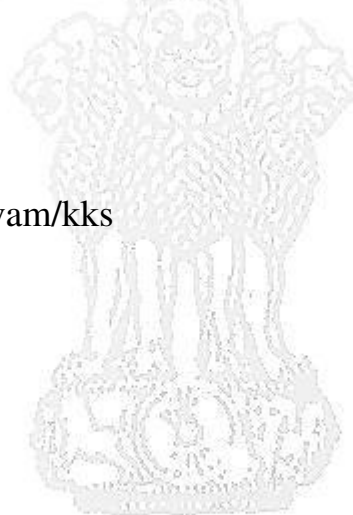
counted in the hierarchy of promotions and therefore, Petitioner No.1 was not entitled to 2<sup>nd</sup> MACP on completion of 20 years on 12.12.2008 and was granted 3<sup>rd</sup> MACP on completion of 30 years in 2018. On the same analogy, benefits as due to the other Petitioners have been correctly granted. Action of Respondents No. 1 to 4 is in consonance with the provisions of ACP/MACP Schemes and cannot be faulted.

22. Accordingly, it is held that the impugned order dated 25.05.2021 suffers from no illegality and the reliefs sought in the present petition cannot be granted to the Petitioners.

23. Writ petition is dismissed being devoid of merit.

**JYOTI SINGH, J**

**APRIL 5, 2023/shivam/kks**



सत्यमेव जयते