



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 7489 OF 2025

1. Union of India, Ministry of Defence, through
The Secretary, Department of
Defence Production, New Delhi-110011.

2. Director General of Ordnance (C&S),
10/A, Shaheed Khudiram Bose Road,
Kolkata-700 001.

3. Deputy Director General, Directorate of
Ordnance (C&S), Directorate Field Unit
Ambajhari, 1st Floor, Admin Block,
Ordnance Factory, Ambajhari, Nagpur

4. The General Manager, Ordnance Factory,
Ambajhari, (A unit of Yantra India
Ltd.) Nagpur-440021

....PETITIONERS

....VERSUS....

1. Sukh Deo Sharma, aged 69 years, retired
as Junior Works Manager, O.F.
Ambajhari, Nagpur R/o. Plot No. 22,
Venanagar, Dattawadi, Nagpur-440023
M.No. 7218283632
Email:sukhdevsharma317@gmail.com.

2. Muthuthodiyal Ravi Shankaran Unni,
aged 66 years, retired as Junior Works
Manager, O.F. Ambajhari, Nagpur, R/O,
Plot no. 97, Sreeragam, Smruti Nagar,
Dattawadi, Nagpur-440023.

3. Lokenath Biswas, aged 68 years, retired as Junior Works Manager, O.F.

Ambajhari, Nagpur, R/O, Row House No. 28, Bharatnagar, Wadadhamna, Nagpur-440023.

4. Kiriti Bhushan Ghosh, aged 66 years, retired as Junior Works Manager, O.F.

Ambajhari, Nagpur, R/O, Flat no. 4, Pooja Apartment, Amravati Road, Dattawadi, Nagpur-440023.

5. Brahm Naren Tiwari, aged 69 years, retired as Junior Works Manager, O.F.

Ambajhari, Nagpur, R/O, Plot No. 1, Adiwasi Layout, Suraksha Nagar, Dattawadi, Nagpur-440023.

6. Suryabhan Shankarrao Rohadkar, aged 67 years, retired as Junior Works

Manager, O.F. Ambajhari, Nagpur, R/O, Flat No. B-106, Plot no. 12, Bhagwati Complex, Sector-9, Ghansoli, Navi Mumbai

7. Meghraj Deorao Kamble, aged 64 years, retired as Junior Works Manager, O.F.

Ambajhari, Nagpur, R/O, Plot no. 235, Dhammakirtinagar, Dattawadi, Nagpur-440023.

8. Ajay Digambar Vyavhare, aged 62 years, retired as Junior Works Manager, O.F.

Ambajhari, Nagpur, R/O, Plot no. 210, Guruprasadnagar, Gajanan Society, Dattawadi, Nagpur-440023.

9. Ashok Keshav Borekar, aged 64 years, retired as Junior Works Manager, O.F. Ambajhari, Nagpur, R/O, Plot No. 288, Hanumannagar, Nagpur-440024

10. Vasant Khushabroa Choudhari, aged about: 67 years, retired as Junior Works Manager, O.F. Ambajhari
r/o: Bungalow no. 109, Bharatnagar Phase-II, Amravati Road, Nagpur-440023

11. Maroti Dadu Choudhary, aged 67 years, retired as Junior Works Manager, O.F. Ambajhari, Nagpur, R/O, Plot no. 40-41, Shikshan Vibhag Society, Anand Nagar, Jaitala Road, Nagpur-440036.

12. Bharatrao Marotrao Kamble, aged 69 years, retired as Junior Works Manager, O.F. Ambajhari, Nagpur, R/O, Plot no. 273, Guruprasadnagar, Gajanan Society, Dattawadi, Nagpur-440023.

13. Ramesh Kumar Vishwakarma, aged 68 years, retired as Junior Works Manager, O.F. Ambajhari, Nagpur, R/O, H.No. 2040, Manmohannagar, Deendayal Upadhyaya Ward, Behind Gayatri Mandir, Jabalpur-482002.

14. Shive Prasad Vishwakarma, aged 70 years, retired as Junior Works Manager, O.F. Ambajhari, Nagpur, R/O, Plot No. 17, New Radke Layout (Durganagar), MIDC Hingna Road, Nagpur-440016

15. Naresh Kumar, aged 69 years, retired as
Junior Works Manager, O.F.
Ambajhari, Nagpur, R/O, Plot No. 92,
Sidhartha Society, 8th Mile Amravati
Road, Nagpur-440023

....RESPONDENTS

Shri S.A.Chaudhari, Advocate for petitioners.
Shri B. Lahiri, Advocate for respondents.

CORAM : ANIL S. KILOR AND
RAJNISH R. VYAS, JJ.

DATE : 08/12/2025

JUDGMENT (PER: RAJNISH R. VYAS, J.)

Heard learned counsel for the petitioners.

2. The petitioners in the present petition are the original respondents whereas the respondents in the present petition are the original applicants.

3. The parties would be referred as they were referred before the Central Administrative Tribunal, Mumbai Bench, Mumbai (for short, 'Tribunal'). A challenge in this petition is to the judgment passed by the learned Tribunal in Original

Application No. 437 of 2023 dated 14/02/2025, by which the learned Tribunal has directed the original respondents to examine each case and grant the original applicants a pay scale of Rs. 5,400/-, if they have completed four years of service in Grade Pay of Rs. 4,800/- and, if they satisfy the other eligibility criteria.

4. The facts of the present case as narrated by the learned Tribunal are as under :-

“3. all the applicants have retired in a Group 'B' post of Junior Works Manager (JWM) from Ordnance Factory Ambajhari, Nagpur. They had individually represented to respondent No.4 to extend the benefit of non-functional upgradation to Grade Pay of Rs.5,400/- (PB-2) on completion of service of four years in Grade Pay of Rs.4,800/- in terms of Government of India's OM dated 29.08.2008.

3(a). The applicants came to be appointed as industrial employees in different technical posts in the Industrial Establishment of Ordnance Factory Ambajhari, Nagpur. With sheer dedication and hard work, the applicants got periodical promotions in non-industrial and non-gazetted cadres and finally superannuated as a Junior Works Manager in a Group B Officer cadre.

3(b). The Government of India introduced the Modified Assured Career Progression Scheme (MACP) which has permitted the next higher Grade Pay on completion of 10, 20 and 30 years of service w.e.f. 01.09.2008. Accordingly, the applicants have been granted financial upgradation

under MACP-3 in Grade Pay of Rs.4,800/- on different dates starting from 01.09.2008 (Annexure A-3).

3(c). As per Government Resolution No. 1/1/2008-IC dated 29.08.2008 (Annexure A-4) issued by Ministry of Finance, all Group 'B' Officers of Department of Posts, Revenue etc. will be granted Grade Pay of Rs.5,400/- in PB-2 on non-functional basis after four years of regular service in the Grade Pay of Rs.4,800/- in PB-2.

3(d). The aforesaid Resolution dated 29.08.2008 issued by Ministry of Finance speaks about grant of Non-functional Grade Pay of Rs.5,400/- to different cadres under the 6th CPC. Subsequently, the recommendation of the 6th CPC with regard to grant of Non-functional Upgradation to the Grade Pay of Rs.5,400/- stood extended to the 7th CPC as Level 9. In this connection it would be pertinent to mention here that in so far as the post of Junior Works Manager, Department of Defence Production is concerned, the Ministry of Finance, by a Notification dated 15.06.2017 (Annexure A-5), have recommended that 80% of the employees in Grade Pay of Rs.4,800/-, will be eligible for non-functional upgrade to level 9 (Grade Pay of Rs.5,400/- PB-2) upon completion of four years in level 8.

3(e). The applicants have duly completed four years of regular service in Grade Pay of Rs.4,800/- and became eligible for grant of non-functional upgradation to Grade Pay of Rs.5,400/- in terms of the Government Resolution dated 29.08.2008. In this connection, Annexure A-6 is a chart showing the date of entitlement of applicants to non-functional upgradation to Grade Pay of Rs.5,400/-. The applicants, therefore, made individual but identical representations to respondent No.2 through respondent No.1. Several such representations have been made starting from 01.09.2019, some of which have apprised the authorities of the judicial pronouncements made in favour of similarly placed applicants. Annexure A-7 is a copy of bunch of representations made by applicants.

3(f). In response to the representations made by the

applicants as early as in the year 2018, the respondent No.4 had given the applicants a stereo-typed reply on 22.10.2018 (Annexure A-8) intimating the applicants that the subject issue has been taken up with Ordnance Factory Board, Kolkata for their directives/orders/instructions. The same will be conveyed to the applicants as and when received from Ordnance Factory Board, Kolkata.”

5. The aforesaid case of the original applicants was opposed by the original respondents on the ground that the applicants were not entitled for the reliefs for grant of non-functional up gradation in the Grade Pay of Rs. 5,400/- as the applicants' pre-revised pay scale was Rs. 7450-11500. The original respondents has also tried to distinguish the order passed by the **Madras High Court dated 06/09/2010 in Writ Petition No. 13225/2010.**

6. According to original respondents, all the applicants were granted Grade Pay of Rs. 4,800 (Level-8) as third up gradation under the ACP/MACP schemes in the post of JWM and same would not amount to actual/functional promotion of the employees concerned. Therefore, the service rendered by the applicants in the Grade Pay of Rs. 4,800/- does

not entail any higher functional duties and responsibilities and thus cannot be considered as “regular service.”

7. Taking the aforesaid stand, the present petition has been preferred.

8. The learned counsel for the original respondents/petitioners also raised similar grounds in the present petition and submits that the learned Tribunal should not have granted relief as prayed for as the prayer of the applicants for grant of non-functional up gradation to Grade Pay of Rs. 5,400/- in respect of Officers on completion of four years' regular service in the grade pay of Rs. 4,800/-, vide communication dated 10/02/2023, was referred to the Ministry of Defence (Department of Defence Production) for necessary directives on the claim of the applicants. Thereafter, the Ministry of Defence has intimated that the instructions issued by the Ministry of Finance vide order dated 27/04/2022 are applicable to the cadre under Central Board of Indirect Taxes and Customs and not applicable to DOO (C&S) and no general instruction

has been issued by DoP&T to implement the said order in respect of other services. Accordingly, according to the original respondents/petitioners, OA ought to have been dismissed.

9. Per contra, the learned counsel for the original applicants/respondents herein has contended that the order passed by the learned Tribunal is just and proper and needs no interference. He submits that the issue has been decided not only by the Madras High Court in the case of **M. Subramaniam V/s. Union of India and ors. in Writ Petition No. 13225/2020**, which was not interfered by the Hon'ble Apex Court, but also by various other orders passed by the learned Tribunal deciding the similar issue, more particularly in **OA No. 503/2017 (Kumar S. Krishnamurthy and ors. V/s. Union of India and ors. decided on 08/10/2018.**

10. We have tested the argument advanced by both the parties so also perused the documents. At this stage, it is necessary to mention here that the similar issue fell for consideration before **the Principal Seat at Bombay in Writ**

Petition No. 1543/2025 decided on 17/02/2025 in the case of Union of India and Ors. V/s. Shri. Deepak B. Deshmukh and ors. The relevant portion of the same is reproduced as below:-

*“6. Perusal of the impugned order shows that the Tribunal, relying upon the judgment of the Hon’ble Supreme Court in **K. C. Sharma Vs. Union of India**² has held that the benefit of a judgment can not be denied to similarly situated employees. The Tribunal has also relied upon the judgment of Hon’ble Supreme Court in the case of **State of Karnataka Vs. C. Lalitha**³ to hold that only because one person has approached the Court, does not mean that similarly situated persons are to be treated differently.*

7. We agree with the said view. Once an issue has been decided by the competent Court, the Government being model employer should not compel all similarly placed individual employees to approach the Court/Tribunal for grant of same benefits. Admittedly in the present matter, the Respondents were granted financial up-gradation and thereafter they have completed four years of service. Clause 3.2 of the said OM issued for the subject of ACP scheme for the Central Government employees, reads as under:

“3.2 ‘Regular Service’ for the purpose of ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment/Service Rules”

8. Having considered the said Clause, in our view, it cannot be interpreted that the service rendered after financial up-gradation is not to be counted so as to deprive the Respondents of the benefits granted under impugned order.

*9. As rightly pointed out by the learned Counsel for the Respondents, the judgment of **M. Subramaniam (supra)** also considers the Resolution of the Ministry of Finance dated 29/08/2008, which provides in Clause x(e) as under:*

“(x) Regarding Group ‘B’ cadres, the Commission’s recommendations will be modified in the following manner:

² (1997) 6 SCC 721

³ 2006 SCC (L&S) 447

x

x

x

(e) Group B officers of Department of Posts, Revenue, etc. will be granted Grade Pay of Rs.5400 in PB-2 on non-functional basis after 4 years of regular service in the grade pay of Rs.4800 in PB-2.”

*The judgment of **M. Subramaniam (supra)** considered the same Resolution and the benefits were granted to the similarly situated Applicants as the Respondents.”*

11. In the aforesaid background, the case of the original applicants cannot be distinguished. The learned Tribunal while deciding the issue has taken into consideration the aforesaid aspect in depth by relying upon the judgment of the **Madras High Court** mentioned *supra*.

12. In that view of the matter, we do not find any jurisdictional error or perversity in appreciation of material and therefore, the petition deserves to be dismissed. Accordingly, the petition stands **dismissed**.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)

B.T.K.