



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 7791 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 (Medical
Section)

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

....PETITIONERS

....VERSUS....

1. Smt. Vidya Vijay Sakhare, aged 58
yrs., working in the post of Sr. Nurse
Gr.1 in O.F. Hospital, O.F. Bhandara,
R/O, Qtr. No. E/22, O.F.Bhandara,
Jawaharnagar, Bhandara-441906.M. No.
883040241
E-Mail: vidyasakhare65@gmail.com.

2. Smt. Damayanti Ganesh Borkar, aged 51
yrs., working in the post of Sr. Nurse Gr.I
in O.F. Hospital, O.F. Bhandara, R/O,
Qtr. No. 1/2 Type-IV, O.F.Bhandara,
Jawaharnagar, Bhandara-441906.

3. Smt. Sunita Narendra Gautam, aged 51 yrs., working in the post of Sr. Nurse Gr.I in O.F. Hospital, O.F. Bhandara, R/O, Qtr. No. 7/2 Type-F, O.F. Bhandara, Bhandara-441906.

4. Smt. Jyoti Rajesh Dungdung, aged 52 yrs., working in the post of Sr. Nurse Gr.I in O.F. Hospital, O.F. Bhandara, R/O, Qtr. No. 7/4 Type-F, O.F. Bhandara, Jawaharnagar, Bhandara-441906..

5. Smt. Archana Nandkishor Yeole, aged 47 yrs., working in the post of Matron in O.F.Hospital, O.F. Bhandara, R/O, Plot No. 35, Orange Nagar, Wathoda Layout, Nagpur-440034.

6. Smt. Sunita Dhanraj Chimankar, aged 55 yrs., working in the post of Metron in O.F.Hospital, O.F. Bhandara, R/O, Qtr. No. 9/1, Type-G, O.F. Bhandara, Jawaharnagar, Bhandara-441906.

7. Smt. Pradnya Subhash Khakse, aged 54 yrs., working in the post of Sr. Nurse Gr.I in O.F. Hospital, O.F. Ambajhari, R/O, Plot no. 201, Gajanan Society, Dutrtawadi, Amraoti Road, Nagpur-440023.

8. Smt. Vandana Dhanraj Tekade, aged 48 yrs, working in the post of Sr. Nurse Gr. I in O.F. Ambajhari, R/O, C-5, Forest Society, Katol Road, Nagpur-440013.

9. Smt. Trupty Rahul Mendhe, aged 44 yrs., working in the post of PHN in O.F. Hospital, O.F. Ambajhari, R/O, Plot No.

280, Krishna Palace, Flat No. 102,
Chitnis Nagar, Dighori Road, Nagpur-
440024.

10. Shri Vivek Yadavrao Kale, aged 48 yrs.,
working in the post of Radiographer in
O.F. Hospital, O.F. Ambajhari, R/O, F3
Bhaskar Arvind Apartment, Borkute Lay
out, Narendra Nagar, Nagpur-440024.

....RESPONDENTS

Shri S.A.Chaudhari, Advocate for petitioners.

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

DATE : 09/12/2025

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. 50 of 2024 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. the applicants are nursing staff of Ordnance Factory Hospital of Ordnance Factory Bhandara and Ordnance Factory Ambajhari, working in Group A / Group B posts. The applicants had individually represented to respondent No.3 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). That 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 scheme in Grade Pay of Rs.4,800/- on different dates starting from 01.09.2008.

3(b). As per the Government Resolution No. 1/1/2008-IC dated 29.08.2008 (Annexure A-2) 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(c). The above-said 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.

3(d). 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-3 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. 3. Annexure A-4 is a copy of bunch of representations identically made by applicants.

3(e). In response to the representations made by the applicants, the respondent No.3 gave the applicants a stereo-typed reply intimating the applicants that vide MOD ID dated 19.07.2023 and DoO (C&S) letter dated 18.08.2023, it is clarified that "the instruction issued by MOF vide their 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 instructions has been issued by DoP&T to implement the said order".

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/- and same was in respect of Group 'B' Officer of Department of Posts, Revenue etc. only. 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 belonged to erstwhile OFB under Department of Defence Production/MoD; the service conditions are different being governed by separate SRO, therefore, the respondents cannot be equated with Junior Scientific Officers of DGAQA.

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.