



W.P.Nos.34382 and 34388 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 12.09.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

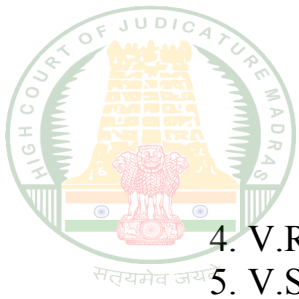
W.P.Nos.34382 and 34388 of 2025 and

W.M.P.Nos.38549 & 38555 of 2025

1. Union of India,
The Secretary to Government,
Ministry of Defence, South Block,
New Delhi - 110 001.
2. The Ordnance Factory Board,
Rep. by its Chairman, Ayudh Bhavan,
10-A, S.K.Bose Road, Kolkata – 700 001.
3. The General Manager,
Ordnance Factory,
Tiruchirappalli - 620 016.
4. Deputy Controller of Finance Accounts (F&S),
Local Accounts Office, Ordnance Factory Board,
Trichy – 620 016.
5. The Department of Personnel & Training,
Represented by its Secretary,
Ministry of Personnel, Public Grievances & Pension,
North Block, New Delhi -110 001. ... Petitioners in both WPs.

-VS-

1. P.Babu Balanathan
2. S.Anthonysamy
3. S.Kumar



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4. V.Rajendran
5. V.Subramanian
6. T.R.S.Rajasekaran
7. M.Subramanian
8. C.Leo
9. R.Gnanapandian
10. P.Karuppaiah
11. V.Iyyappan
12. R.Periyasamy
13. M.Arumugam
14. J.John Sekar
15. R.Kondamma
16. R.Rangasamy
17. M.Ravichandran
18. C.Karunakaram
19. T.Kannayiram Munga
20. P.Kondaiah
21. E.P.Mungan
22. N.Sivakumar
23. P.Pushpa
24. N.Muthukennadi
25. T.Ramesh
26. M.Mahalaksmi
27. T.R.Gopalakrishnan
28. P.Arun Kumar
29. D.Thamizh Chelvan
30. R.Domnic Maria Lawrance
31. L.Legiomary
32. D.Swaminathan
33. D.Manimaran
34. A.Asanmohamed
35. V.Edward
36. R.Subramani
37. D.S.G.Christopher

... Respondents in W.P.34382/2025

1. A.S.Akbar Ali

... Respondent in W.P.34388/2025



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Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari to call for the records dated 29.04.2025 of the Hon'ble Tribunal, Chennai Bench passed in O.A.Nos.310/00998/2016 and 310/00948/2016 and quash the same, insofar it is against the petitioners.

For Petitioners : Dr.K.Kannan (in both WPs.)

For Respondents : Mr.Karthik (in both WPs.)

COMMON ORDER

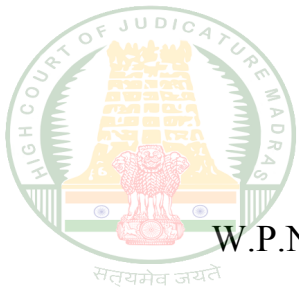
(By J.Nisha Banu,J.)

These Writ Petitions have been filed to quash the common order dated 29.04.2025 passed in O.A.Nos.310/00998/2016 and 310/00948/2016, by which a direction was issued to the Government / petitioners herein to grant ACP and all other consequential benefits to the respondents without insisting a pass in the Trading Test.

2. Mr.Karthik, learned counsel takes notice for the respondents.

By consent, these Writ Petitions are taken up for final disposal at the admission stage itself.

3. For the sake of brevity, the facts are being taken from



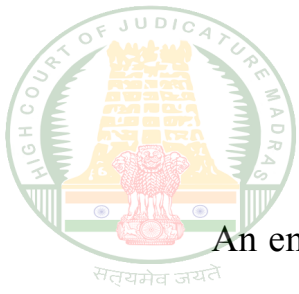
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W.P.No.34382 of 2025, which read as follows:

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i) The Assured Career Progression (AC) Scheme was introduced on 09.08.1999 by the Government of India, as per which, two financial upgradations were allowed in the entire Government service of an employee and the same shall be counted against regular promotions. The first upgradation would be allowed after 12 years of regular of service and the second would be after 12 years from the date of first financial upgradation. If one promotion has been received, the second financial upgradation is possible after 24 years, following fulfillment of promotion norms, benchmarks, examinations and seniority with the upgradation granted in line with the existing promotional.

ii) According to the Ordnance Factory Board instructions dated 05.11.2009, from 01.01.2006, unskilled and semi-skilled workers in the industrial cadre have been merged into the pay band-1 with a grade pay of Rs.1800. The existing unskilled labourers would be redesignated as Semi skilled from 01.01.2006 or from their date of induction, whichever is later.



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An employee, who got promotion from lower pay scale to higher pay scale as a result of promotion before merger of pay scales shall be entitled for upgradation under ACPs ignoring the said promotion as otherwise he would be placed in a disadvantageous position, vis-a-vis the fresh entrant in the merged grade;

iii) As per the recommendations of Sixth Central Pay Commission, Modified Assured Career Progression Scheme (MACPS) was introduced on 19.05.2009, which replaces the previous ACP, by introducing three financial upgradations at 10, 20 and 30 years. The financial upgradation under MACPS grants the next higher grade pay as per the hierarchy of Grade Pays/Pay bands set by the 6th pay commission, so as to ensure that employees receive fair financial progression based on the length of service. As per the subsequent clarification dated 06.11.2009, the four pre-revised Group 'D' pay scales, viz., Rs.2550-3200, Rs.2610-3540, Rs.2610-4000 and Rs.2650-4000 have been upgraded and replaced by the revised pay structure of grade pay of Rs.1800/- in the pay band PB-1;

iv) The passing of Trade Test is mandatory to grant any



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financial upgradation under the old scheme of ACP. As per the instructions given by the Department of Personnel and Training, the respondents are not entitled to review and grant additional upgradation consequent on the merger of labourer unskilled and labourer semi skilled and ignoring their promotions and upgradations earned prior to merger. When repay fixation proposal was forwarded to Local Accounts Office, the same was returned, stating that the promotion upgradations earned under ACP in the past, i.e., prior to 01.01.2006, to the four pay scale structure carrying single grade pay of Rs.1800/- shall be ignored only for the purpose of MACPS.

v) The order of the Tribunal, extending the benefits to the respondents with retrospective effect by relaxing the Trade Test for granting financial upgradation under ACP is contrary to the instructions of ACP scheme. Since a pass in the Trade Test is mandatory, the order of the Tribunal is liable to be set aside.

4. Learned counsel for the petitioners submitted that it is not feasible for the petitioners to grant the benefit of financial upgradation under ACP scheme by relaxing the pre-condition of pass in the Trade Test.



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Moreover, there is no instructions received from the Government as to the grant of additional upgradation under ACP scheme for the period from 01.01.2006 to 31.08.2008. The order of the Tribunal would cause huge financial implications to the Exchequer, as the order is not in consonance with the clarifications given by the MoD in consultation with DoP&T. Hence, he prayed for setting aside the order of the Tribunal.

5. Per contra, learned counsel for the respondents contended that when the recommendation of the 6th Pay Commission was issued with retrospective effect from 01.01.2006, insistence of pass in the Trade Test for the grant of ACP benefit is highly arbitrary. Moreover, the said Test has not been conducted by the petitioners from 01.01.2006 to 31.08.2008. When the Trade Test requirement was relaxed in the former case, the same is applicable to the case of the respondents also, which has been rightly accepted by the Tribunal and therefore, the order of the Tribunal does not warrant any interference by this Court.

6. Heard the learned counsel on either side and perused the



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material documents available on record.

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7. According to the respondents, the petitioners were in a predetermined mind not to grant the ACP benefits to the respondents, mandating the requirement of pass in Trade Test and ignoring the fact that the 6th CPC recommendation was issued in September, 2008 with retrospective effect from 01.01.2006. The petitioners had not conducted any Test in the interregnum period and as such, the refusal on the part of the petitioners in denying the ACP benefits for no fault of the respondents is highly illegal. Aggrieved by the decision of the Government, the respondents herein knocked at the doors of the Tribunal, which granted the relief to them.

8. On a careful scrutiny of the order of the Tribunal, it is seen that the Tribunal granted the financial upgradation under the ACP without the need for passing the Trade Test under specific circumstances, where cadre restructuring had retrospective effect and the Trade Test was not conducted during the period from 01.01.2006 to 31.08.2008. It is settled law



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that procedural requirements, when rendered impossible due to administrative omission, cannot be made a condition precedent for conferring substantive benefits.

9. In our considered opinion, the Tribunal has considered various factors and directed the petitioners to grant the benefits of ACP to the respondents without insisting a pass in the Trade Test. The order of the Tribunal is in consonance with various judgments of the Court rendered from time to time. Therefore, the petitioners have not made any *prima facie* case to interfere with the order of the Tribunal and thus, the Writ Petitions are liable to be dismissed.

10. Accordingly, both Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

(J.N.B.J.) (S.S.J.)
12.09.2025

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J.NISHA BANU, J.



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