Judgment Dated: 14-10-2026
WBCHCA0418352026

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WP.CT 197 OF 2026

1. **Union of India,**
   service through the Secretary, Ministry of Communication Department of Post, Dak Bhawan, New Delhi-110001;
2. **The General Manager (Postal Accounts & Finance),** West Bengal Postal Circle, P-36 C.R. Avenue, Yogayog Bhawan, Kolkata- 700012;
3. **Senior Accounts Officer (Postal), Kolkata,**
   Office of the General Manager (Postal Accounts and Finance), Yogayog Bhawan, Kolkata-700012.

]…PETITIONERS

-VERSUS-

1. **Pradip Kumar Bhowmik,**
   son of Late Bireswar Bhowmik, age about 69 years, worked as Assistant Accounts Officer, Yogayog Bhawan, Kolkata-700012, residing at 4, Saroda Saroni, P.O.- Dum Dum Cantt, Kolkata – 700028;
2. **Uday Narayan Roy,**
   Ex-Senior Accountant, (Postal Accounts & Finance), Yogayog Bhawan, Kolkata-700012.

]…RESPONDENTS

WITH

WP.CT 198 OF 2026

1. **Union of India,**

service through the Secretary, Ministry of Communication Department of Post, Dak Bhawan, New Delhi-110001;

2. The General Manager (Postal Accounts & Finance),

West Bengal Postal Circle, P-36 C.R. Avenue, Yogayog Bhawan, Kolkata-700012;

3. Senior Accounts Officer (Postal), Kolkata,

Office of the General Manager (Postal Accounts and Finance), Yogayog Bhawan, Kolkata-700012.

]…PETITIONERS

-VERSUS-

1. Asit Kumar Saha,

Son of Late Arabinda Saha, age about 69 years, worked as Assistant Accounts Officer, Yogayog Bhawan, Kolkata-700012, residing at Village- Sahapur (Telepukur), Post Office- Nalikul, Police Station- Haripal, District- Hooghly, Pin- 712407;

2. Uday Narayan Roy,

Ex-Senior Accountant, (Postal Accounts & Finance), Yogayog Bhawan, Kolkata-700012.

]…RESPONDENTS

WITH

WP.CT 191 OF 2026

1. Union of India,

through the Secretary, Ministry of Communication, Department of Post, office at "Dak Bhawan", New Delhi-110001;

2. The General Manager (Postal Accounts & Finance),

West Bengal Postal Circle, P-36 C.R. Avenue, Yogayog Bhawan, Kolkata-700012;

3. Senior Accounts Officer (Postal), Kolkata,

office of the General Manager (Postal Accounts and Finance), Yogayog Bhawan, Kolkata- 700012.

]…PETITIONERS

-VERSUS-

1. **Maya Pathak,**
   daughter of Late I.K. Rakshit, worked as Senior Accountant, Yogayog Bhawan, Kolkata-700012, residing at Purba Sinthee Road, Dumdum Jn., Purba Aptt. 4A, Kolkata- 700030;
2. **Uday Narayan Roy,**
   Ex-Senior Accountant, (Postal Accounts and Finance), office at Yogayog Bhawan, Kolkata-700012.

]…RESPONDENTS

WITH

WP.CT 192 OF 2026

1. **Union of India,**
   service through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi-110001;
2. **The General Manager (Postal Accounts & Finance),**
   West Bengal Postal Circle, P-36 C.R. Avenue, Yogayog Bhawan, Kolkata-700012;
3. **Senior Accounts Officer (Postal), Kolkata,**
   Office of the General Manager (Postal Accounts and Finance), Yogayog Bhawan, Kolkata - 700012.

]…PETITIONERS

-VERSUS-

1. **Swapan Kumar Das,**

son of Late Sachindra Mohan Das, aged about 68 years, worked as Assistant Accounts Officer, Yogayog Bhawan, Kolkata, residing at 156, Santinagar, Post Office: Rahara, District: North 24-Parganas, Kolkata-700118;

2. Uday Narayan Roy,

Ex-Senior Accountant, Office of the General Manager (PA & F), Yogayog Bhawan, C.R. Avenue, Kolkata-700012.

]…RESPONDENTS

WITH

WP.CT 193 OF 2026

1. Union of India,

service through the Secretary, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi-110001;

2. The General Manager (Postal Accounts & Finance),

West Bengal Postal Circle, P-36 C.R. Avenue, Yogayog Bhawan, Kolkata-700012;

3. Senior Accounts Officer (Postal) Kolkata,

Office of the General Manager (Postal Accounts and Finance), Yogayog Bhawan, Kolkata-700012.

]…PETITIONERS

-VERSUS-

1. Prakash Chandra Das,

son of Late Uttam Pad Das, aged about 68 years, worked as Assistant Accounts Officer, Yogayog Bhawan, Kolkata, residing at 140/A, Parui Daspara Road, P.O. – Sarsuna, Behala, Kolkata- 700061;

2. Uday Narayan Roy,

Ex-Senior Accountant, Office of the General Manager (PA & F), Yogayog Bhawan, CR Avenue, Kolkata-700012.

]…RESPONDENTS

WITH

WP.CT 194 OF 2026

1. Union of India,

through the Secretary, Ministry of Communication, Department of Post, office at "Dak Bhawan", New Delhi-110001;

2. The General Manager (Postal Accounts & Finance),

West Bengal Postal Circle, office at P-36 C.R. Avenue, Yogayog Bhawan, Kolkata- 700012;

3. Senior Accounts Officer (Postal) Kolkata,

office of the General Manager (Postal Accounts and Finance), Yogayog Bhawan, Kolkata-700012.

]…PETITIONERS

-VERSUS-

1. Swapan Das,

son of Late Priya Nath Das, residing at 102A, Muchipara Road, P.O. Paschim Putiary, Kolkata- 700041;

2. Uday Narayan Roy,

Ex-Senior Accountant, (Postal Accounts and Finance), office at Yogayog Bhawan, Kolkata-700012.

]…RESPONDENTS

Appearance:
Mr. Pradip Kumar Bhowmick,
Mr. Sourav Mondal,
Mr. Abhijit Tantubay,

...Advocate for Petitioners in WPCT 197/2026, WPCT 198 of 2026

Mr. Sujit Bhunia,

...Advocate for Petitioners in WPCT 191 of 2026, WPCT 194 of 2026

Mr. Udayan Chakraborty
Mr. Pradip Paul

...Advocate for the Petitioners in WPCT 192 of 2026, WPCT 193 of 2026

Mr. Ujjal Ray
Ms. Atreya Chakraborty

...Advocate for Respondent No.1

CORAM: RAVINDRA V. GHUGE, CJ.
&
OM NARAYAN RAI, J.

RESERVED ON: SEPTEMBER 25, 2026

PRONOUNCED ON: OCTOBER 14, 2026

JUDGMENT (PER: OM NARAYAN RAI, J.):-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. Since a common question of law in similar set of facts has arisen in all these Writ Petitions, therefore, all of them are being dealt with by a common judgment and order.

3. These six Writ Petitions are directed against six separate orders dated March 23, 2026 passed by the Central Administrative Tribunal, Kolkata

Bench[1] in six several original applications[2] all of which involve the same issue. For the sake of clarity, a chart mapping the orders passed in the different OAs to their respective Writ Petitions is provided below:-

O.A. No.	**Order Date**	**Writ Petition No.**
O.A. 350/00329/2023	23.03.2026	WP.CT 191 of 2026
O.A. 350/00332/2023	23.03.2026	WP.CT 192 of 2026
O.A. 350/00331/2023	23.03.2026	WP.CT 193 of 2026
O.A. 350/00330/2023	23.03.2026	WP.CT 194 of 2026
O.A. 350/00315/2023	23.03.2026	WP.CT 197 of 2026
O.A. 350/00321/2023	23.03.2026	WP.CT 198 of 2026

4. The sole issue that has fallen for determination in this batch of writ petitions is whether the original applicants, all of whom retired as Senior Accountants, are entitled to the consequential benefits (and the arrears thereof) upon "stepping up" of their pay to remove a pay anomaly with the Respondent No. 2 (Shri Uday Narayan Roy)[3], who drew a higher pay solely by virtue of financial benefits granted under the Assured Career Progression Scheme[4].

[1] **Hereafter "the Tribunal"**
[2] **Hereafter "the OA"**
[3] **Hereafter "the private respondent"**
[4] **Hereafter "the ACP Scheme"**

FACTUAL MATRIX:

5. Shorn of meticulous details, the facts relevant for adjudication of the present writ petitions, as may be gathered from the material on record, are as follows:-

a. The original applicants commenced their service as Lower Division Clerks[5] in the office of the General Manager (Postal Accounts and Finance), West Bengal Postal Circle, Kolkata, on the same day namely- February 27, 1979. All of them were subsequently promoted to the post of Junior Accountant on the respective dates indicated hereinbelow:-

Names of the Original Applicants	Dates of Promotion to the post of Junior Accountant
Maya Pathak	01.04.1982
Pradip Kumar Bhowmik	25.03.1983
Swapan Das	29.09.1981
Swapan Kumar Das	01.07.1982
Prakash Chandra Das	01.09.1982
Asit Kumar Saha	01.07.1982

b. They were, thereafter, promoted to the post of Senior Accountant on April 01, 1987. The Respondent No.2, on the other hand, was

[5] **Hereafter "LDCs"**

directly appointed as a Junior Accountant on May 19, 1983 and he was promoted to the post of Senior Accountant on July 01, 1989.

c. On May 19, 2007, the private respondent was extended the benefits of the ACP Scheme as he had stagnated in the same post without any avenue for promotion. Due to such benefits the pay of the private respondent exceeded those of the original applicants.

d. Subsequently, on September 01, 2008, the original applicants were given the benefit of the third Modified Assured Career Progression Scheme[6]. Upon such benefit being granted, the pay of the original applicants became higher than the private respondent, but the situation got reversed again upon the MACP benefit being extended to the private respondent in the year 2013. The anomaly continued till the original applicants superannuated.

e. At the relevant point of time, the Delhi Bench of the Tribunal passed an order on an application being O.A. filed by a different set of employees in the postal department, directing the employer to step up the pay of such employees so as to bring the same at par with their junior(s). The original applicants therefore made representations seeking extension of the benefit of the said decision passed by the Delhi Tribunal to them as well.

[6] **Hereafter "the MACP Scheme"**

f. Such representations remained unaddressed. Being aggrieved by the nonchalance of the writ petitioners, the original applicants (excepting Shri Swapan Das) and several others approached the Tribunal by filing O.A.1453 of 2015. Shri Swapan Das on the other hand filed O.A. 691 of 2017 before the Tribunal seeking the same relief of stepping up of his pay to bring the same at par with his junior.

g. O.A.1453 of 2015 was ultimately disposed of by the Tribunal on July 19, 2017 thereby directing the writ petitioners to consider the representations made by the applicants of the said OA. The writ petitioners disposed of the said representations by separate orders dated January 16, 2018 thereby declining the request made by the said original applicants.

h. The original applicants of O.A. 1453 of 2015 then carried the said orders dated January 16, 2018 to the Tribunal by filing separate original applications. The Tribunal disposed of all the said original applications by a common order dated February 11, 2019 thereby quashing the impugned order dated January 16, 2018 and remanding the matter to the authorities for re-examination of the claim of the original applicants for stepping up of their pay to be at par with their juniors on the basis of an order dated May 11, 2015 passed by

the Patna Bench of the Tribunal in OA 440 of 2014 and the Principal Bench of the Tribunal in OA 2124 of 2011.

i. The writ petitioners challenged the said order dated February 11, 2019 before this Court by filing WP.CT 47 of 2020. The same was dismissed by a Co-ordinate Bench of this Court on November 18, 2020 with the observation that the writ petitioners would "*be at liberty to consider the issue on case to case basis to determine the eligibility of the each of the applicants, on the basis of seniority".* This Court clarified that such observation was being made in the wake of the writ petitioners' submission that many of the applicants before the Tribunal had, "*by their conduct, deprived themselves of the earlier seniority position having regard to their migration on request transfer or otherwise*".

j. The other O.A. 691 of 2017 filed by Shri Swapan Das as aforesaid, was taken up by the Tribunal and was disposed of by granting liberty to the said original applicant to make a comprehensive representation to the writ petitioners and a corresponding direction was passed on the writ petitioners to dispose of the representation in accordance with law. He accordingly made a representation on February 10, 2021 to the General Manager (P.A & F).

k. The General Manager (P.A & F)[7], Kolkata, thereafter, reconsidered all the representations made by the original applicants and once again turned down their requests for stepping up of their pay to bring the same at par with the private respondent by passing separate orders dated May 09, 2022.

l. Upon the original applicants' requests being declined by the GM they knocked the doors of the Tribunal again by filing the six separate Original Applications in the year 2022 itself. All the said OAs were disposed of by a common order dated July 26, 2022 by once again granting liberty to the original applicants "*to prefer a comprehensive representation to the competent respondent authorities seeking benefits on par with Uday Narayan Roy, Ex Senior Accountant".* It was further directed that the representations, if preferred, would be decided in accordance with law.

m. Accordingly, the original applicants made representations to the wit petitioners, which were considered and disposed of by the G.M. by way of separate speaking orders dated November 30, 2022 thereby declining the requests of the original applicants for stepping up of their pay to bring the same at par with the private respondent.

[7] **Hereafter "GM"**

n. Feeling aggrieved by the said speaking orders dated November 30, 2022; the original applicants approached the Tribunal again by filing the six OAs which have been mentioned in the chart provided at paragraph 3 hereinabove.

o. The said OAs were considered and disposed of by six several orders dated March 23, 2026 - all of which are identical in substance and conclusion. By the said orders, the speaking orders dated November 30, 2022 have been quashed and the writ petitioners have been directed to take appropriate steps in terms of the "*observations*" made by the Tribunal in the orders passed by it.

p. The aforesaid six orders dated March 23, 2026 have been challenged by the writ petitioners by way of the present writ petitions.

SUBMISSIONS ON BEHALF OF THE WRIT PETITIONERS

6. A brief summary of the submissions made by the learned Counsel appearing for the petitioners, is as follows:-

a. The alleged anomaly in the pays of the original applicants and private respondent occurred due to the grant of benefit of financial upgradation to the private respondent. In terms of the DOPT OM dated August 09, 1999, no benefit under the ACP Scheme could have been granted to the original applicants as they had already got two regular promotions.

b. The private respondent got only one financial benefit upon being promoted to the post of Senior Accountant while the original applicants stood blessed with two promotions.

c. In terms of Clause 5.1 of the ACP scheme an employee who has got a regular promotion would be entitled to second financial upgradation upon completing 24 years of regular service but if an employee has got two regular promotions, then such employee would not be entitled to any benefit under the said scheme.

d. According to Clause 8 of the ACP Scheme financial upgradation under the said scheme is a purely personal benefit having no relevance to his seniority. In such view of the matter, no additional financial upgradation can be granted to a senior employee on the ground that a junior employee in the same grade is enjoying a higher pay scale due to benefits granted under the ACP Scheme. Fundamental Rules 22 i.e., FR-22 (C) can also not made applicable to the original applicants for the same reason.

e. MACP Scheme is a continuation of the ACP Scheme. Since the original applicants have availed the benefit of the MACP Scheme without any protest they are not entitled to challenge any anomaly in pay occurring due the grant of financial benefit to the private respondent under ACP Scheme. In support of such

contention, a judgment of the Hon'ble Supreme Court in the case of ***Union of India & Others vs. M.V. Mohanan Nair***[8] was relied on.

f. The Tribunal could not have relied on the judgment of the Hon'ble Supreme Court in the case of the case of ***Union of India & Others vs. C.R. Madhava Murthy & Another***[9] inasmuch as the larger Bench judgment of the Hon'ble Supreme Court in the case of ***M.V. Mohanan Nair*** (supra) holds the field.

g. The judgment in the case of ***M.V. Mohanan Nair*** (supra) had been rendered by a three Judge Bench of the Hon'ble Supreme Court much prior to the judgment in the case of ***C.R. Madhava Murthy*** (supra) and such prior binding precedent went unnoticed in the later judgement rendered by the Division Bench of the Hon'ble Supreme Court.

h. The original applicants have not challenged either the ACP Scheme or the MACP Scheme and as such they are not entitled to any relief.

i. The anomaly of pay fixation cropped up in the year 2007, thereafter the original applicants received the benefit of MACP Scheme without any protest and they ultimately retired from

[8] **(2020) 5 SCC 421**
[9] **(2022) 6 SCC 183**

service upon superannuation. Their cause of action arose in the year 2007 and as such they could not have been allowed any benefit by the Tribunal after a lapse of 14 years from the date of accrual of cause of action.

j. The original applicants and private respondent did not belong to the same cadre at the time when they joined their respective posts. While the original applicants joined services in the post of LDC after having passed the 12th standard, the private respondent joined service in the post of Junior Account with a Bachelor's degree from a recognised University; therefore, they cannot be treated at par with each other and cannot be permitted to claim parity with the private respondent.

k. A further ground has also been taken in each of the writ petitions (which has been numbered as ground No. X in some and ground no. XIV in the rest) to assert that the Tribunal failed to appreciate that the original applicants were further promoted to the post of the Assistant Account Officer (AAO) in the grade pay of Rs.4800 while the private respondent while working as Senior Accountant rose to the grade pay of Rs.5400, upon getting the benefits of the 3rd MACP Scheme, which means that the private respondent and the original applicants fell in different cadres and

therefore, the original applicants were not entitled to stepping up of their pay.

SUBMISSIONS ON BEHALF OF THE ORIGINAL APPLICANTS

7. A brief summary of the submissions made by the learned Counsel appearing for the original applicants, is as follows:-

a. The original applicants have only prayed for removal of disparity in pay and have not demanded any benefit under the ACP Scheme.

b. The two promotions granted to the original applicants may disentitle the original applicants to a benefit under the ACP Scheme but the same would not denude them of their right to seek correction of disparity in their pay in comparison with their junior. The judgment of the Hon'ble Supreme Court in the case of ***C. R. Madhava Murthy*** (supra) was cited in support such contention.

c. On May 19, 2007, both the original applicants as well as the private respondent were in the same cadre and in the same post. At the time when the private respondent got promoted to the said post, the original applicants had already been working there as Senior Accountants. In such view of the matter, mere the difference in the routes through which the original applicants and the private

respondent reached the relevant post cannot affect the claim of the original applicants.

d. Increase in the pay of the original applicants due to grant of benefits under the MACP Scheme cannot defeat a right that arose in the year 2007 when the pay of the private respondent became more than the original applicants and it remained so even at the time when the original applicants retired from service.

e. Grant of benefit under MACP cannot cure an anomaly that has arisen upon grant of benefits under ACP Scheme.

f. Executive instructions cannot neutralise the later declaration of law by the Hon'ble Supreme Court in the case of ***C. R Madhava Murthy*** (supra).

g. The objection as regards delay in approaching the Tribunal is without substance inasmuch as the original application had been filed in the year 2023 challenging an order passed on November 30, 2022 which is well within the time prescribed in Section 21 of the Administrative Tribunal's Act, 1985. In fact the original applicants had approached the Tribunal even earlier and the orders impugned in the present batch of writ petitions were passed only in the latest round of the OAs that had been filed in the year 2023.

h. In any event, incorrect pay fixation and its adverse consequences on pension constitute a recurring cause of action. In support of such contention judgement in the Hon'ble Supreme Court in the case of ***M.R.Gupta vs. Union of India***[10] and ***Union of India vs. Tarsem Singh***[11] were relied on.

ANALYSIS & DECISION

8. Heard the learned Counsels appearing for the respective parties and considered the material on record.

9. The writ petitioners' contention that any benefit under ACP Scheme is purely personal in nature and is unconnected with seniority is impeccable. However, as already indicated in the beginning, the question involved in the present case is whether the original applicants are entitled to "stepping up" of their pay so that the anomaly in their pay as compared to that of the private respondent is removed. The said aspect would be clear from the reliefs claimed by the original applicants before the Tribunal.

10. The principal prayers made by the original applicants in their respective OAs are identical. The same read thus:-

"i) Speaking order dated 30.11.2022 issued by General Manager (PA & F), Kolkata cannot be sustained in the eye of law and the same may be quashed.

[10] **(1995) 5 SCC 628**
[11] **(2008) 8 SCC 648**

ii) An order do issue directing the respondents to remove anomaly of pay by stepping up of the pay of the applicant at per private respondent with effect 19.05.2007 and to grant all consequential benefits including arrears."

11. It is thus clear that the original applicants do not want any financial upgradation under the ACP Scheme. It is not their case that their pay should be stepped up by granting them the same financial benefit that has been granted to the private respondent under the ACP Scheme. All they want is that they should not be paid less than their junior in the same post and their pay be equalised with that of their junior.

12. The summary of the relevant facts of the case provided in paragraph 5 hereinabove would reveal that the original applicants remained senior to the private respondent all through, right from the day the private respondent joined service in the post of Junior Accountant. Yet, the pay of the private respondents remained more than the original applicants when they retired from service upon attaining the age of superannuation.

13. If by dint of financial upgradation under any career progression scheme the pay of a junior employee surpasses that of a senior employee working in the same post and discharging the same duty as the junior employee who received the financial upgradation that would create anomaly which would need correction. This very aspect was decided by the Hon'ble Supreme Court in the case of ***C.R. Madhava Murthy*** (supra) in the following words:-

"9. *Having heard Ms Madhavi Divan, learned ASG and considering the facts and circumstances of the case, which has emerged from the impugned judgment and order [C.R. Madhava Murthy v. Union of India, 2021 SCC OnLine Kar 15222] passed by the High Court, it cannot be said that the original writ petitioners were as such claiming the stepping up of the pay under the ACP Scheme. Their grievance was with respect to the anomaly in the pay scale and their grievance was that while granting upgradation under the ACP Scheme, their juniors were getting higher salaries than what they receive. Therefore, it was a case of removal of anomaly by stepping up of pay of seniors on promotion drawing a less pay than their juniors.*

1*0. The High Court has therefore rightly relied and/or considered FR 22 and the order issued by the Government of India on removal of anomaly by stepping up of pay, which reads as under:*

"(22) Removal of anomaly by stepping up of pay of Senior on promotion drawing less pay than his junior — (a) As a result of application of FR 22-C. [Now FR 22 (I)(a)(1)]. In order to remove the anomaly of a government servant promoted or appointed to a higher post on or after 1-4-1961 drawing a lower rate of pay in that post than another government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions, namely:

(a) Both the junior and senior officers should belong to the same cadre and the posts in which they have been promoted or appointed should be identical and in the same cadre;

(b) The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical;

(c) The anomaly should be directly as a result of the application of FR-22-C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer.

The orders refixing the pay of the senior officers in accordance with the above provisions shall be issued under FR-27. The next increment of the senior officer will be drawn on completion of the requisite qualifying service with effect from the date of refixation of pay.

[GI, MF, OM No. F.2 (78) -E.III (A)/66, dated the 4-2-1966]."

11. *Therefore, it was a case where a junior was drawing more pay on account of upgradation under the ACP Scheme and there was an anomaly and therefore, the pay of senior was required to be stepped up. Hence, in the facts and circumstances of the case, the High Court has rightly directed the appellants herein to step up the pay of the original writ petitioners keeping in view of pay scale which has been granted to the juniors from the date they have started drawing lesser pay than their juniors. We are in complete agreement with the view taken by the High Court. No interference of this Court is called for."*

(Emphasis supplied)

14. While there is no fundamental right to promotion, Article 16 of the Constitution of India guarantees a fundamental right to be considered for promotion in accordance with the applicable service rules[12]. In view of such legal position, the State ensures that its employment framework remains non-arbitrary, fair and compliant with the mandate of Article 16 by extending time-bound financial upgradation(s) under schemes like the ACP and the

[12] **Ajit Singh (2) vs. State of Punjab, (1999) 7 SCC 209; Union of India vs. Sangram Keshari Nayak**

MACP to employees facing career stagnation due to sheer lack of promotional avenues and not due to any fault attributable to them.

15. However, compliance with one constitutional mandate must not lead to the negation of the other. It is now well settled that "a senior cannot be paid a lesser salary than his junior"[13] and that an arbitrary pay inversion offends the mandate of Article 14 and the spirit of Article 39(d) of the Constitution of India.[14]

16. ***C.R Madhava Murthy*** (supra) has applied FR 22 to take care of such an anomalous situation where there is a pay disparity owing to grant of financial benefits to the eligible junior employees of the same cadre in identical posts.

17. The writ petitioners relied on the judgment of the Hon'ble Supreme Court in the case of ***M.V. Mohanan Nair*** (supra) to assert that stepping up of the pay of a senior employee to bring the same at par with a junior employee who has received financial upgradation under the ACP Scheme is impermissible.

18. The core issue that had fallen for consideration before the Hon'ble Supreme Court in the case of ***M.V. Mohanan Nair*** (supra) was whether financial upgradations under the MACP Scheme should be granted in tune

[13] **Gurcharan Singh Grewal vs. Punjab SEB, (2009) 3 SCC 94**

[14] **Jayprakash Singh vs. the State of Uttar Pradesh & Others, Civil Appeal No.4559 of 2026, decided on September 16, 2026.**

with the next grade pay in the promotional hierarchy or the next higher grade pay simpliciter. In that case the relevant Tribunal had held that the financial upgradations should conform to the next grade pay in the promotional post and the Punjab and Haryana High Court had affirmed such view. In such context the first paragraph of ***M.V. Mohanan Nair*** (supra) may be noticed:-

> *"Leave granted. The instant batch of appeals have been filed assailing the orders of various High Courts dismissing petitions filed by the appellants, thereby upholding decisions rendered by different Benches of the Central Administrative Tribunal granting financial upgradation of grade pay in the next promotional hierarchy by placing reliance upon Union of India v. Raj Pal [Union of India v. Raj Pal, 2011 SCC OnLine P&H 14580]. In these batch matters, we are concerned with the question whether the Modified Assured Career Progression (MACP) Scheme entitles financial upgradation to the next grade pay or to the grade pay of the next promotional hierarchy."*
>
> (Emphasis supplied)

19. Thus in ***M.V. Mohanan Nair*** (supra) the question was entirely different. We are conscious that in paragraph 3.3(iii) thereof a question similar to the one involved in the present case was framed but the said question does not appear to have been decided by the Hon'ble Supreme Court in the said case. Paragraph 4 of the said judgment reveals that the appeals wherein the said question had been raised had been directed to be de-tagged and listed separately. The relevant portions of paragraph 3 and 4 are extracted hereinbelow:-

> *"3. The main questions falling for consideration in these appeals are:*

3.1. (i) Whether MACP Scheme entitles financial upgradation of pay to the next grade pay or to the grade pay of the next promotional post as envisaged under the Assured Career Progression (ACP) Scheme? Whether MACP Scheme envisages grant of financial upgradation in grade pay hierarchy and not in promotional hierarchy?

3.2. *(ii) As contended by the respondents, whether MACP Scheme is disadvantageous to the employees in comparison to ACP Scheme as long as the financial upgradation is granted in hierarchy of grade pay under MACP Scheme?*

3.3. *(iii) Whether the respondents are entitled to stepping up of their grade pay to be on a par with grade pay of their juniors who were getting the higher grade pay on account of implementation of MACP Scheme?*

4. *Appeals relating to Issue 3.3.(iii) were ordered to be de-tagged and listed separately."*

(Emphasis supplied)

20. We are aware that the Hon'ble Supreme Court has in the said case analysed the ACP and MACP Schemes and in the process also referred to the relevant clauses of the said two schemes which prohibit *"additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay scale"* under the said Schemes. However, such reference was in the context of answering the first two questions that were framed by the Hon'ble Court and not the third question. The same, therefore, cannot help the writ petitioners in the present case. It is well settled that *"a decision is an authority for what it decides and not that everything said therein constitutes a precedent. The courts are obliged to employ an intelligent technique in the use of precedents bearing it in mind that a*

decision of the court takes its colour from the questions involved in the case in which it was rendered."[15]

21. The subject matter of consideration in ***M.V. Mohanan Nair*** (supra) was entirely different as would be evident from the following observations of the Hon'ble Court:-

*"**Discussion and findings***

28. *Though various contentions have been raised assailing the MACP Scheme viz. "financial upgradation in the next grade pay" and "no stepping up of pay on the ground that junior getting more pay", be it noted that the clauses of the MACP Scheme including the clause providing the financial upgradation in the next grade pay have not been challenged by the respondents. In the impugned judgments, the Tribunals/High Courts have only relied upon Raj Pal case and not gone into the MACP Scheme vis-à-vis erstwhile ACP Scheme and also not considered the merits of the contention of the respondents. We have therefore, considered the MACP Scheme vis-à-vis erstwhile ACP Scheme in the light of the contentions raised by the respondent.*

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30. *The learned Amicus Curiae and the learned counsel appearing for the respondents urged the Court to adopt a "purposive interpretation" that the words "immediate next higher grade pay" to be interpreted as "Grade pay of the next promotional post" in the hierarchy. MACP Scheme envisages merely placement in the immediate next higher grade pay. By perusal of the MACP Scheme extracted earlier, it is seen that the words used in the Scheme are "placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands". The term "grade pay in the next promotional post" is conspicuously absent in the entire body of the MACP Scheme. The argument of the respondents that the benefit of MACP Scheme is referable to the promotional post, is dehors the MACP Scheme and cannot be accepted. Though ACP and MACP Schemes are intended to provide relief against stagnation, both the schemes have different features. Pay scales under the Sixth Pay Commission and the MACP Scheme are stated to be more beneficial since it extends to the*

[15] **State of Punjab vs. Baldev Singh, (1999) 6 SCC 172**

employees with time intervals with higher pay bands and various facilities which were not available under the ACP Scheme including the three financial upgradations in shorter time span. In any event, MACP Scheme has not been challenged by the respondents. As rightly contended by the learned ASG, the respondents cannot be permitted to cherry-pick beneficial features from the erstwhile ACP Scheme and also take advantage of the beneficial features in the MACP Scheme.

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38. *The prescription of pay scales and incentives are matters where decision is taken by the Government based upon the recommendation of the expert bodies like the Pay Commission and several relevant factors including financial implication and court cannot substitute its views. As held in Haryana CivilSecretariat Personal Staff Assn. [State of Haryana v. Haryana Civil Secretariat Personal Staff Assn., (2002) 6 SCC 72 : 2002 SCC (L&S) 822] , the Court should approach such matters with restraint and interfere only when the Court is satisfied that the decision of the Government is arbitrary. Even in a case where the Court takes the view that order/scheme passed by the Government is not an equitable one, ordinarily only a direction could be given to the State Government or the authority for consideration of the matter and take a decision. In the present batch of cases where the respondents are claiming financial upgradation in the grade pay of promotional hierarchy, no grounds are made out to show that the MACP Scheme granting financial upgradation in the next grade pay is arbitrary and unjust; warranting interference. The implementation of the MACP Scheme is claimed to have led to certain anomalies; but as pointed out earlier, MACP Scheme itself is not under challenge."*

(Emphasis supplied)

22. Furthermore, as already indicated hereinabove, the original applicants are not claiming any additional upgradation under the ACP Scheme. They are seeking removal of the pay anomaly as already decided in a similar fact situation by the Hon'ble Supreme Court in ***C.R. Madhava Murthy*** (supra).

23. In ***C.R. Madhava Murthy*** (supra), the Hon'ble Supreme Court upheld the stepping up of the senior employees' pay under the applicable FR 22 in circumstances where their juniors drew higher pay following the ACP upgradation. The said judgment supports the distinction between a claim for an additional financial upgradation under the ACP Scheme and a claim for removal of a pay anomaly under the applicable stepping-up rules. Accordingly, Clause 8 of the ACP Scheme should not be treated as an automatic bar without considering the nature of the relief claimed.

24. As regards the writ petitioners' contention that the original applicants had been initially appointed as LDC and reached the post of Junior Accountants by way of promotion, while the private respondent was directly recruited at the said post, we find that the same would make no difference in the case at hand since the service birthmark got effectively erased by the time the pay anomaly occurred. The pay disparity did not occur due to the direct recruitment of the private respondent. It occurred upon grant of financial upgradation under the ACP Scheme after both the original applicants and the private respondent had been promoted to the post of Senior Accountants. Even otherwise, the facts of ***C.R. Madhava Murthy*** (supra) are substantially similar to the facts of the present case. There too, the original writ petitioners were promotes from a different feeder post while the private respondent was a direct recruit to the promotional post.

25. The writ petitioners' reliance on the DOPT OM dated August 09, 1999, to assert that no benefit under the ACP Scheme could have been granted to the original applicants as they had already got two regular promotions also cannot salvage their case since the original applicants do not claim any additional financial benefit under the ACP Scheme.

26. The ground that the original applicants had been further promoted to the post of AAO while the private respondent was drawing higher pay due to grant of benefits under the 3rd MACP Scheme also fails to prop the writ petitioners' case. It will be evident from the facts delineated hereinabove, that the anomaly in the pay of the original applicants and the private respondent occurred due to the grant of benefit under the ACP Scheme to the private respondent when both the original applicants as well as the private respondent were in the same post i.e. – Senior Accountant. This anomaly was eclipsed for some time when the original applicants got the benefit under the 3rd MACP Scheme but the moment the private respondent also got the same benefit, the anomaly became visible again. The same is therefore clearly attributable to the grant of benefits under the ACP Scheme and is therefore covered by the judgment in the case of ***C. R. Madhava Murthy*** (supra).

27. The ground of delay urged by the writ petitioners is also unimpressive. It is noticed that the original applicants have all along been pursuing their claims as recorded in the impugned orders themselves and they

approached the Tribunal immediately after the GM decided against them. Further, the original applicants have already retired upon attaining the age of superannuation. The anomaly clearly affects their pensionary benefits. Such cause still continues. As held in ***M.R.Gupta*** (supra) and ***Tarsem Singh*** (supra) if an issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties.

CONCLUSION:

28. For all the reasons aforesaid, the orders dated March 23, 2026 passed by the Tribunal call for no interference. **WP.CT 197 of 2026, WP.CT 198 of 2026, WP.CT 191 of 2026, WP.CT 192 of 2026, WP.CT 193 of 2026, WP.CT 194 of 2026, stand dismissed**. No costs.

29. Rule is made absolute.

30. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

[OM NARAYAN RAI, J.] **[RAVINDRA V. GHUGE]**
CHIEF JUSTICE