

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S)No. 4256 of 2025

1. The Union of India through the General Manager, East Central Railway, Hajipur, At- Hazipur, P.O. & P.S.- Hazipur, District- Vaishali (Bihar).
2. The Chief Personnel Officer, East Central Railway, having its office at Hajipur, P.O. & P.S. Hajipur, District - Vaishali, Bihar.
3. The Divisional Railway Manager, East Central Railway, Dhanbad, P.O. & P.S. - Dhanbad, District - Dhanbad, Jharkhand.
4. The Sr. Divisional Personnel Officer, East Central Railway, Dhanbad, P.O. & P.S. Dhanbad, District - Dhanbad, Jharkhand.

PETITIONERS/RESPONDENTS.

VERSUS

1. Om Prakash Sharma, aged about 56 years, Son of Late R.K. Sharma, Resident of Railway Qtr. No. 37/A, Station Colony, Barkakana, Ramgarh, P.O. & P.S. Barkakana, District - Ramgarh, Jharkhand.
2. Binod Kumar Jha, aged about 56 years, Son of Sri Ram Kumar Jha, Resident of Railway Qtr. No. 149 AB, Kalipara, P.O. & P.S. Gomo, District Dhanbad, Jharkhand.
3. Mohan Hansdah, aged about 58 years, Son of Late Gaichan Hansdah, Resident of Qtr. No. 395 EF, ST No. 3, South Colony, Gomo, P.O. & P.S. Gomo, District - Dhanbad, Jharkhand.
4. Dinesh Kumar Pandey, aged about 56 years, Son of Late Surendra Pandey Akhil, Resident of Railway Qtr. No. 87A, Railway Colony, At, P.O. & P.S. Chandrapura, District - Bokaro, Jharkhand.

RESPONDENTS/APPLICANTS

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Petitioners : Mr. Abhijeet Kumar Singh, CGC
For the Respondents: Mr. Vishal Kumar Tiwary, Adv

C.A.V on 10/04/2026 **Pronounced on 21/04/2026**

Per Sujit Narayan Prasad, J:

Prayer:

1. The instant writ petition, filed under Article 226 of the Constitution of India, has been filed against order dated 17.12.2024 passed in OA/051/01142/2019 by learned Central Administrative Tribunal, Patna Bench, Circuit Bench, Ranchi, by which, the learned tribunal has quashed order dated 02.08.2019, whereby and whereunder the benefits of MACP to Grade Pay of Rs. 4600-4800 has been denied; and further the tribunal directed to give benefits of MACP in the Grade Pay of Rs.4600-4800 including other entire consequential benefits to the respondents/applicants on the similar footing/line, as granted to the applicants of OA No. 051/00027/2014.

Factual Matrix:

2. The respondents-applicants, preferred Original Application before the learned Central Administrative Tribunal, Patna Bench, Circuit Bench, Ranchi, stating therein the facts, in brief, as under:
3. The applicant no. 1, namely, Om Prakash Sharma was appointed as Assistant Commercial Clerk, in Grade Pay of Rs. 2000 on 18.03.1987. He was promoted to the post of Sr. Commercial Clerk in the Grade Pay of Rs. 2800 w.e.f. 01.05.1996 and further promoted as Goods Guard in same Grade Pay of Rs. 2800 from 01.04.2002. He was

given 2nd MACP w.e.f. 01.09.2008 in the Grade Pay of Rs. 4200. It is stated that at the time of filing of the Original Application, the applicant no. 1 was posted at Barkakana, in Dhanbad Division and his 3rd MACP has become due after completion of 30 years of regular service i.e. from 18.03.2017.

- 4.** The applicant no. 2, namely, Binod Kumar Jha was appointed as Goods Guard, in Gomo Division, Dhanbad Division on 18.09.1986 and was promoted to the post of Sr. Goods Guard in the year 2013 in Grade Pay of Rs.4200. It is stated that at the time of filing of the Original Application, the applicant no. 2 was posted at Gomo in Dhanbad Division. The 2nd MACP is due from 01.09.2008 in the Grade Pay of Rs. 4600 and also 3rd MACP is due from 18.09.2016 in Grade Pay of Rs.4800 i.e. after completion of 20 and 30 years of service.
- 5.** The applicant no. 3, namely, Mohan Hansdah was appointed on 25.03.1987 as Goods Guard in Grade Pay of Rs.2800 and was promoted to the post of Sr. Goods Guard in the year 1992, in the Grade Pay of Rs. 4200. It is stated that at the time of filing of the Original Application, the applicant no. 3 was working as Mail Express Guard in the Grade Pay of Rs. 4200 and his 2nd and 3rd MACP is due from 01.09.2008 and 25.03.2017 respectively.

- 6.** The applicant no. 4, namely, Dinesh Kumar Pandey was appointed as Goods Guard in the Grade Pay of Rs. 2800 on 27.09.1986 and was promoted to the post of Sr. Goods Guard in Grade Pay of Rs. 4200 and thereafter he was designated as Sr. Passenger Guard in the same Guard Pay; and at the time of filing of the Original Application he was working as Mail/Express Guard since 01.12.2012 in the same Grade Pay in Gomo, at Dhanbad Division. His 2nd MACP is due from 01.09.2008 in Grade Pay of Rs. 4600 and 3rd MACP is due from 27.09.2016 in Grade Pay of Rs.4800.
- 7.** It is the case of the applicants, the respondents herein, that the pay scale of Sr. Goods Guard, Passenger Guard is same. It is further case of the applicants that several other similarly situated persons, who were appointed as Goods Guard in the initial pay scale of Rs. 2800 were extended the benefits of MACP after being found eligible as per the scheme formulated by the Govt. of India and thereafter those applicants started getting financial benefits under the MACP Scheme in the scale of Rs.4600/4800.
- 8.** However, the Railway Board clarified that the promotion from Sr. Goods Guard to Passenger Guard should be counted for the purpose of MACP Scheme. It was further clarified by the Board that if an employee appointed as

Goods Guard earns three promotion/financial up-gradation till he reaches the post of Mail/Express Guard he shall not be entitled to further financial up-gradation under MACP Scheme.

9. It is stated that the Sr. Personnel Officer, East Central Railway, Dhanbad had informed them that financial up-gradation granted to them under MACP is being reviewed and accordingly their pay shall be re-casted.

10. It is stated that some similarly situated persons filed an Original Application before the Central Administrative Tribunal, Circuit Bench at Ranchi, which was numbered as O.A. No. 051/00027/2014, and was decided taking into consideration the other Original Applications filed before the different Tribunals and vide order dated 14th January, 2015 it was held that the relief prayed for in this OA are allowed in full and the up-gradation granted under MACP be given to the applicants within a period of 3 months from the date of receipt of the communication of this order.

11. Thereafter, the Union of India had filed writ petition before the Jharkhand High Court, being, W.P.(S) No. 4754 of 2015 which was dismissed holding that there is no substance in the writ petition, against which, the UOI filed SLP before the Hon'ble Supreme Court which was also dismissed. Against which, the review

petition was filed before the Hon'ble Supreme Court being Review Petition (C) No. 386 of 2018, which too was dismissed vide order dated 20th February, 2018.

12. It is case of the applicants that as the case of the applicants, the respondents herein, were also similar to those of the applicants of the OA No. 27/2014, these applicants sought that the same benefits shall also be extended to them.

13. It is further stated that in the meantime, a communication dated 11.07.2018 was made to General Manager (P), East Central Railway, Hajipur, by Sr. Divisional Personnel Officer, East Central Railway, Dhanbad, wherein it was communicated that keeping the judgment of the Hon'ble Supreme Court in SLP (C) No. 4501 of 2017 in mind there should be a review of the present policy of MACP in Guard Cadre so that Railway Rules may come in the tune to judgment of Hon'ble Supreme Court and therefore, it was requested to raise issue at appropriate level and to communicate the guidelines in the subject matter.

14. The General Manager (P), ECR had also written to Director, Pay Commission, Railway Board, New Delhi on 13.08.2018 for taking necessary action and necessary changes with regard to the judgment passed by the Hon'ble Supreme Court in S.L.P.(C) No. 2501/2017 for

financial up-gradation in Grade Pay of Rs. 4600 and 4800, respectively, as references are being received from several sides and division, regarding grant of financial up-gradation of Grade Pay Rs.4600 and Rs.4800 in Guard Cadre.

15. It is the case of the applicants, the respondents herein that in light of the order passed by the Hon'ble Supreme Court, these applicants submitted representations individually to the Divisional Railway Manager (P), Eastern Central Railway, Dhanbad for extending the MACP to these applicants to their respective Grade Pay i.e. Rs. 4600/4800.

16. In response thereto, a letter was issued by the Sr. Divisional Personnel Officer East Central Railway, Dhanbad on 02.08.2019, rejecting the claim of the applicants wherein it has been said that the Grade Pay of Rs. 4600 or Rs. 4800 is not admissible to them. It is pertinent to note that letter dated 02.08.2019 was issued in the light of letter dated 18.07.2012 issued by the Divisional Railway Manager (P), East Central Railway, Dhanbad.

17. Being aggrieved with letter dated 02.08.2019 issued by the Sr. Divisional Personnel Officer East Central Railway, Dhanbad, the applicants approached the learned Central Administrative Tribunal, Patna

Bench, Circuit Bench, Ranchi by filing original application being OA/051/01142/2019, which was allowed vide order dated 17.12.2024 entitling the applicants for the relief as sought for and direction was passed to extend the benefit of MACP to the Grade Pay of Rs. 4600-4800/- including other entire consequential benefits to the applicants on the similar footing/line as granted to the applicants of OA No. 051/00027/2014.

- 18.** The petitioners-Union of India through Railway being aggrieved with the order dated 17.12.2024 passed in OA/051/01142/2019, approached before this Court by filing the present writ petition.

Submission on behalf of petitioners-UOI

- 19.** Mr. Abhijeet Kumar Singh, learned CGC appearing for the writ petitioner-UOI, has assailed the impugned order passed by the tribunal on the following grounds.

- 20.** Submission has been made that applicant no. 1, Om Prakash Sharma was appointed as Asst. Commercial Clerk in Grade pay Rs.2000/- and promoted as senior Commercial Clerk in Grade pay Rs.2800/- and as Goods Guard in same Grade pay of Rs.2800/-. Now he is working as Senior Goods Guard in Grade Pay Rs.4200/-. The applicant No.2 is also working as Senior Goods Guard in Grade pay Rs.4200/-

The applicant No.03 is working as Mail/Express Guard in Grade Pay Rs.4200/- and the applicant No.04 is working as Mail/Express guard in Grade Pay Rs.4200/-.

21. The Railway Board vide No.PCV/2010/MACP/7/ECR its letter dated 10.02.2011, clarified that every financial up-gradation is to be counted as up-gradation and offset against the financial up-gradation under MACP in terms of Board's letter dated 10.06.2009 (RBE No.101/2009). Therefore, the placement grant of higher grade pay from Goods Guard to Sr. Goods Guard on Non-functional basis should be reckoned as up-gradation for the purpose of MACP scheme.

22. Further, the categories of Passenger Guard and Sr. Passenger Guard have been merged and allotted Grade Pay of Rs.4200/- vide Boards letter dated 11.09.2008 (RBE No.108/2008). In terms of Para-08 of the Board's letter dated 10.06.2009, the promotion from Sr. Goods guard to Passenger Guard should be counted for the purpose of MACPS and in terms of Para-05 of the said letter, the promotion from Passenger Guard to Sr. Passenger Guard should be ignored for MACP Scheme.

23. On the aforesaid backdrop, it is stated that an employee appointed as Goods Guard has earned

following three promotions/financial up-gradations till he reaches Mail/Express Guard viz:-

(i) From Goods Guard to Sr. Goods Guard.

(ii) From Sr. Goods Guard to Passenger Guard.

(iii).From Sr. Passenger Guard to Mail/Express Guard

(Passenger Guard to Sr. Passenger Guard to be ignored).

24. Therefore, such employees are not entitled to pay further financial up-gradation under MACP Scheme.

25. Further submission has been made that due to implementation of 6th Pay Commission, the Guard Cadre and its pay structure avenue of promotion etc. is as under:-

(i) Goods Guard, PB-1, Rs. 5200-20200/-+ Grade pay Rs. 2800/-

(ii) Senior Goods Guard, PB-2, Rs. 9300-34800/-+ Grade pay Rs. 4200/-

(iii) Passenger/Senior Guard, PB-2, Rs. 9300-34800/-+ Grade pay Rs. 4200/-

(iv) Mail/Express Guard, PB-2, Rs. 9300-34800/-+ Grade pay Rs. 4200/-

26. It has been submitted that when promotion is given from Goods Guard to Senior Goods Guard, one 3% increment + difference of Grade Pay has been granted. When promotion is given from Senior Goods guard to Passenger/Senior Passenger Guard, running allowance & other allowances are enhanced.

- 27.** Further, when promotion is given from Passenger Guard/Senior Passenger Guard to Mail/Express Guard, promotional benefit by granting one increment of 3% and running allowance, and additional allowance Rs.500/-+ Dearness allowance (DA) are enhanced. As per Railway Board's letter no. PC-VII/217/1/7/5/5 dated 10.08.17 (RBE No.85/2017) additional allowances Rs.750/- and Rs. 1125/- with dearness allowance (DA) is also granted to Senior Passenger Guard and Mail/Express Guard respectively w.e.f. 01.07.2017.
- 28.** Submission has been made that although there is same Grade pay from Senior Goods Guard to Mail/Express guard i.e. Grade pay Rs.4200/-, so in terms of RBE No.101/09 all staff of Guard Category were granted financial up-gradation under MACP to next higher Grade Pay.
- 29.** Learned CGC further referring to the Railway Board letter No. PC V/2010/MACP/7/ECR, dated 10.02.2011 submitted that the said letter clarified that the Guard category earns substantial monetary benefit while granting promotion from Goods Guard to Mail/Express Guard, so they should not be granted further financial up-gradation to next higher Grade Pay i.e. Grade pay Rs.4600/-, Rs.4800/- etc. as they earned three promotions in hierarchy.

30. It has been submitted that in terms of said Railway Board's letter dated 10.02.2011, the financial up-gradation granted to Guard Category under MACP scheme was reviewed which was intimated to the concerned staff and their depot in charge vide letter No.ET-1/Guard/MACP/11 dated 27.09.2011 and dated 05.09.2011 respectively. Accordingly their (Applicant no.03 and 04 of this OA) pay was re-casted vide Estt. Office Order No.2609/09/Pay-recast of 2011 and docket no.ET-I/Guard/MACP/11 dated 27.9.2011.

31. Learned counsel for the petitioners-Railway has further drawn attention of the Court toward Board's circular/order/direction, which clarifies that the financial up-gradation under ACP/MACP scheme cannot be allowed to higher Grade pay an employee on his normal promotion (i.e. Guard promoted up-to Grade pay Rs.4200/-) vide Rly. Bd's letter no. PC-V/2010/MACP/7/ECR/ dated 30.04.12 and letter no. PC-V/2009/ACP/12, dated 13.12.2012 (RBE No. 142/2012 and GM(P)/Hajipur letter No. E/205(A)/O/ECR/HJP dated 18.07.2012.

32. It has been submitted that some staff of Guard category has filed an OA No.051/00027/2014, *Kawish Kr. & Ors. Vrs. UOI & Ors*, before the learned CAT, Ranchi, which was disposed of vide order dated

14.01.15. The matter travelled up-to Hon'ble Apex Court even by filing review petition, which was also dismissed. Therefore, in compliance of order dated 14.01.2015 passed in O.A. No.051/00027/2014 by the Tribunal, the benefit of MACP of the petitioners of that Original Application was provisionally extended. Further, the benefit of MACP in GP Rs.4600/-has been granted to the applicant no.03 and 04 of the Original Application vide letter no.ET-1/Guard/MACP/10 dated 18.05.2010 which was re-casted vide Estt. Office Order No.2609/09/Pay-recast of 2011 and docket no.ET-1/Guard/MACP/11, dated 27.09.2011 as per Board's directed and the benefit of MACP in GP. 4200/- have been granted to the applicant no.02 and 01 of this OA vide letter dated 18.05.2010 and 10.02.2012 respectively.

33. Pursuant thereto, the applicants submitted application vide letter dated Nil to extend benefit of MACP to the grade pay Rs.4600/- and 4800/-. The applicants were informed vide this office letter no.ET-I/Guard/MACP/14 dated 02.08.19, that in terms of GM(P)/Hajipur's letter no.E/205(A)/O/ECR/HJP dated 18.07.2012 financial up-gradation under MACP scheme in GP of Rs. 4600/- and Rs. 4800/- cannot be extended.

34. Being aggrieved with the said letter the applicants filed an OA No.051/1142/ 2019, the subject matter of present case, before the CAT/Patna Circuit Bench at Ranchi for quashing of the letter dated 02.08.2019 and to give benefit of MACP in Grade Pay Rs.4600/- Rs.4800/- as per judgment passed dated 14.01.2015 in OA No.51/27/2014 before the tribunal.

35. In this regard, submission has been made that sine the present applicants, the respondents herein were not the party to O.A. No.051/00027/2014, as such they are not entitled to any further financial up-gradation under MACP scheme.

36. Referring to supplementary affidavit filed on behalf of petitioners-railway submission has been made that an employee appointed as Goods Guard earns following promotions/financial up-gradations till he reaches Mail/Exp. Guard:

I.Goods Guard to Sr. Goods Guard.

II.Sr. Goods Guard to Passenger Guard.

III.Passenger Guard to Sr. Passenger Guard.

IV.Sr. Passenger Guard to Mail/Exp. Guard.

[Passenger Guard to Sr. Passenger Guard to be ignored due to merger].

37. Further attention has been drawn to the hierarchical position of the concerned posts, which is in tabular chart, the same is re-produced as under:

Posts	Pay Scale/Grade Pay
Trainee Guard/Goods Guard	1200-2040/4500-7000/ GP Rs. 2800/-
Sr. Goods Guard	1350-2200/5000-8000/ GP Rs. 4200/-
Passenger Guard	1350-2200/5000-8000/ GP Rs. 4200/-
Sr. Passenger Guard	1350-2200/5500-9000/ GP Rs. 4200/-
Mail/Exp. Guard	1400-2300/5500-9000/ GP 4200/-

38. Referring to the tabular chart, submission has been made that the respondents-original applicants are only entitled to get the higher Grade Pay which can be allowed to an employee on normal promotion i.e., the grade pay of Rs. 4200/-, but this aspect of the matter has not been taken into consideration by learned tribunal, hence, the same requires interference.

39. Learned CGC appearing for the petitioners-railway has emphatically submitted that some other person employed as Guard have got benefit of MACP Scheme in Grade pay of 4600/-, 4800/- by virtue of order passed by CAT which was upheld up-to Hon'ble Apex Court.

Submission has been made that in this regard, letter of railway board dated 13.12.2012 is relevant which provides that financial up-gradation under MACP Scheme cannot be in higher Grade Pay what can be allowed to an employee on normal promotion. The issue regarding validity of this letter travelled up-to Hon'ble Apex Court in Civil Appeal No. 3328-3329/2018 with analogous cases. The Hon'ble Apex Court vide its judgment dated 27.03.2018 has held *that the employee are not entitled to Grade pay higher than what they may get on actual promotion in hierarchy*. However, without taking into account the preposition laid down by Hon'ble Supreme Court, the learned Tribunal has allowed the Original Application relying upon judgment passed by this Hon'ble Court, which requires interference.

40. Learned CGC appearing for the petitioners-Railway on the aforesaid ground has submitted that the claim of the applicants was unjustified, but the learned tribunal did not take into consideration these facts and passed the impugned order, which requires interference by this Court.

Submission on behalf of respondents-applicants

41. Mr. Vishal Kumar Tiwari, learned counsel for the respondents-applicants defending the order passed by

the tribunal has submitted that the learned tribunal has well considered all these facts into consideration and thereafter passed the impugned order, which requires no interference by this Court.

42. It has emphatically been submitted similar issue was raised before the learned Central Administrative Tribunal, Circuit Bench at Ranchi by filing O.A No. 051/00027/2014, which was allowed vide order dated 14th January, 2015, and the matter travelled up-to Hon'ble Supreme Court, by filing review petition being Review Petition (C) No. 386 of 2018, which was also dismissed vide order dated 20th February, 2018. Thereafter, such applicants-employee [Goods Guards] were granted the benefit of up-gradation by granting the Grade Pay of Rs. 4600/- and Rs. 4800/-. Therefore, the respondents herein in light of the said order submitted representations individually to the Divisional Railway Manager (P), Eastern Central Railway, Dhanbad for extending the MACP to these applicants to their respective Grade Pay i.e. Rs. 4600/4800, which was rejected vide order 02.08.2019, against which the applicant filed the Original Application being OA/051/01142/2019. The learned tribunal considering the entire gamut of the matter has allowed the vide order dated 17.12.2024 entitling the applicants for the

relief as sought for and direction was passed to extend the benefit of MACP to the Grade Pay of Rs. 4600-4800/- including other entire consequential benefits to the applicants on the similar footing/line as granted to the applicants of OA No. 051/00027/2024, which requires no interference by this Court.

43. Submission has been made that the basic grade pay of Goods Guard is Rs. 2800/- thereafter, the next hierarchical pay-scale and Grade pay is Rs. 4200; Rs. 4600/- and Rs. 4800/-, respectively, which is an admitted position. Therefore, the stand of the petitioners-Railway that for the promotional post of Sr. Goods Guard, Passenger Guard, Sr. Passenger Guard and Mail/Exp. Guard are same to the tune of Grade Pay of Rs. 4200/-, which is beyond the recommendation of Pay Commission Report.

44. Learned counsel for the applicants, the respondents herein, on the aforesaid ground has submitted that the order passed by the tribunal requires no interference.

Analysis

45. Heard learned counsel for the parties, perused the documents available on record as also the finding recorded by learned tribunal in the impugned order.

46. Admitted fact herein is that all the respondents-applicants are under the cadre of 'Guard', though initially, the applicant no. 1 joined the post of Assistant Commercial Clerk in Grade Pay of Rs. 2000 on 18.03.1987 and thereafter, he was promoted to Sr. Commercial Clerk in Grade Pay of Rs. 2800 w.e.f. 01.05.1996 and he was promoted as Goods Guard in same Grade Pay of Rs. 2800 w.e.f. 01.04.2002. Rest of the applicants have joined initially on the post of 'Goods Guard' in corresponding Grade Pay of Rs. 2800/-, as applicable in 6th PRC.

47. It further requires to mention herein that pursuant to recommendations of the Sixth Central Pay Commission, the Ministry of Railway replaced the existing Assured Career Progression Scheme (ACP) by a new Scheme, namely, Modified Assured Career Progression Scheme (MACP Scheme). Under the ACP Scheme, the employee were only entitled to two financial up-gradation after 12 and 24 years of regular service, which was replaced under MACP Scheme by 10, 20 and 30 years of regular service.

48. All the applicants entered in the service of 'Goods Guard' in the corresponding pay-scale of Rs. 2800/-. So far as promotional avenue attached to the post of Goods

Guard is concerned, as per the pleading available on record, it is from Goods Guard, Sr. Goods Guard, Passenger Guard; Sr. Passenger Guard and Mail/Express Guard. However, the pay-scale of Sr. Goods Guard and Passenger Guard are the same.

49. Case of the respondents-original applicants is that similarly situated 'Goods Guards', who were in the pay-scale with Grade Pay Rs. 2800/-, had approached the Tribunal by filing Original Application No. 51/0027/2014 for extending the benefit of MACP to the Grade Pay of Rs. 4600/4800 to the applicants, to the tune of order passed by the tribunal at Ernakulam and Allahabad, which was allowed and the matter travelled up-to Hon'ble Apex Court, wherein the view taken by the tribunal has been affirmed.

50. While, the case of the writ petitioners-railways is that as argued by learned CGC by referring to the Railway Board letter No. PC V/2010/MACP/7/ECR, dated 10.02.2011 is that the said letter clarified that the Guard category earns substantial monetary benefit while granting promotion from Goods Guard to Mail/Express Guard, so they should not be granted further financial up-gradation to next higher Grade Pay

i.e. Grade pay Rs.4600/-, Rs.4800/- etc. as they earned three promotions in hierarchy.

51. So far order passed in O.A. No.051/00027/2014 is concerned, submission has been made that the respondents-Original Applicants were not the party in the original application, as such they are not entitled to any further financial up-gradation under MACP scheme.

52. Learned CGC appearing for the petitioners-railway has laid much emphasis that some other person employed as Guard have got benefit of MACP Scheme in Grade pay of 4600/-, 4800/- by virtue of order passed by Hon'ble CAT upheld up-to Hon'ble Apex Court. The Hon'ble Apex Court in Civil Appeal No. 3328-3329/2018 with analogous cases, Court vide its judgment dated 27.03.2018 has held *that the employee are not entitled to Grade pay higher than what they may get on actual promotion in hierarchy.*

53. On the backdrop of aforesaid admitted factual aspect and case laws, this Court has proceeded to examine legality and propriety of the impugned order passed by the tribunal but before entering into the legality and propriety of the impugned order, question which requires consideration is:

*“Whether in the facts and circumstances of the case, the case of the applicants, the respondents herein, is covered by the judgment passed by the tribunal in O.A. No. 1286 of 2013 [Mukti Singha & Ors. Vs. Union of India & Ors], relating to Nurse Cadre, being affirmed by Hon’ble Apex Court in Civil Appeal No. 3328-3329/2018, emphasis upon which the petitioners-railway has given; **or** is covered by the order passed by the tribunal in OA No.051/00027/2014, [Kawish Kr. & Ors. Vrs. UOI & Ors], which has taken care of the order passed by the tribunal at Allahabad and Ernakulam Bench and being affirmed up-to Hon’ble Apex Court, emphasis upon which the applicant-respondents?”*

54. This Court, before considering the aforesaid issues, needs to refer herein the power which is to be exercised by the High Court in exercise of power conferred under Article 226 of the Constitution of India in the matter of order passed by the tribunal, as per the ratio laid down by Hon’ble Apex Court in the case of **L. Chandra Kumar Vs. Union of India & Ors.** reported in **(1997) 3 SCC 261** particularly paragraph 99, wherein it has been held that the High Court is having power of judicial review to look into the legality and propriety of the order of the tribunal to the extent that if the order passed by the tribunal suffers from any perversity or the order is passed without following the principles of natural justice or there is error

apparent on the face of order. For ready reference, paragraph 99 of the judgment is quoted as under:

"99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated."

55. The power of judicial review has also been deliberated by the Hon'ble Apex Court, which is to be considered while exercising the said power only to the extent that if any

order is being passed found to be having error on the face of the order or without jurisdiction or suffers from perversity. The error apparent on the face of the order means that if the order appears on its face having with error, then only the power of judicial review is to be exercised.

56. The Hon'ble Apex Court in the case of ***West Bengal Central School Service Commission vs. Abdul Halim, (2019) 18 SCC 39***, has held at paragraph-30 that the power of judicial review must be exercised by the Court after determining that the impugned is vitiated by an error apparent on the face of the record and not the same has been established by a process of reasoning. Paragraph-30 of the aforesaid judgment is being referred as under:

“30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . --- .”

57. In the case of **T.C. Basappa vs. T. Nagappa and Anr., (1955) 1 SCR 250**, their Lordship have held that the patent error in a decision can be corrected by writ of certiorari, when it is manifested by the error apparent on the face of the proceedings. The relevant portion of the aforesaid judgment is quoted hereunder:

“11. ... An error in the decision or determination itself may also be amenable to a writ of certiorari but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by certiorari but not a mere wrong decision.”

58. Thus, on the basis of the aforesaid settled legal position it is evident that the power of judicial review can be exercised, if error on the face of the order impugned, challenged under the Article 226 of Constitution of India, appears to be there.

59. Much emphasis has been laid down by learned CGC appearing for the petitioners-railways on the judgment dated 27.03.2018 passed by Hon’ble Apex Court in Civil Appeal No. 3328-3329/2018 with analogous cases, wherein it has been held *that the employee are not entitled to Grade pay higher than what they may get on actual promotion in hierarchy.*

60. This Court in order to delve into the issue has gone into the factual aspect involved in the said case i.e.,

order passed by the CAT in Original Application No. 1286 of 2013, wherefrom it is evident that the applicant has made out the case that the applicant, namely, Smt. Mukti Singha and others, who were working as Chief Matron in the B.R.Singh Hospital, Eastern Railway. She had received two promotions in her career and the 3rd MACP in the Grade Pay of Rs.6600/- was awarded to her from 01.09.08. It is alleged that the respondents suddenly without any notice or giving any opportunity for submission of representation ventilating their grievances issued order dated 23.8.13, intended to refix the pay of the applicant in PB-3 with grade Pay Rs.5400/-.

61. Ground has been taken that similarly situated persons moved Principal Bench of the Tribunal in **OA 141/12 [Delhi Nurses Union (Registered) Hq. Dr. Ram Monohar Lohia Hospital, New Delhi & Ors. -vs. Union of India & Ors.]** which was allowed in favour of the applicants by order dated 9.5.12 and the writ/appeal filed against the said order by the respondents was ultimately upheld in favour of the applicants by the Hon'ble High Court of Delhi and the Supreme Court of India.

62. While the case of the respondents-railway in that case was that the promotional hierarchy of the Railway Nursing cadre of in the Eastern Railway, consists of the following posts with pay-scale:

Sl. No.	Category	Pay Band	Grade Pay
1.	Staff Nurse	Rs.9300-34800/-	Rs. 4600/-
2.	Nursing Sister	Rs.9300-34800/-	Rs. 4800/-
3.	Chief Matron	15600-39100/-	Rs. 5400/-
4.	Assistant Nursing Officer	15600-39100/-	Rs. 5400/-

63. Further ground has been taken that the hierarchy of the Nursing cadre in Government Hospitals at Delhi, reference of which has been taken by the applicants , as notified by the Ministry of Finance vide Gazette Notification dated 29.8.08 is:

Sl.No.	Category	Pay Band	Grade Pay
1.	Staff Nurse	Rs.9300-34800/-	Rs. 4600/-
2.	Nursing Sister	Rs.9300-34800/-	Rs. 4800/-
3.	Assistant Nursing Superintendent	15600-39100/-	Rs. 5400/-
4.	Dy. Assistant Nursing Superintendent	15600-39100/-	Rs. 5400/-
5.	Nursing Superintendent	15600-39100/-	Rs. 6600/-
6.	Chief Nursing Officer	15600-39100/-	Rs. 7600/-

64. It has been submitted that in Delhi, higher Grade Pay of Rs.6600/- and Rs.7600/- is available in the hierarchy of Nurses in Government Hospitals but the Eastern Railway does not have such higher Grade Pay in the Nursing cadre. Therefore, submission has been made that this Original Application being devoid of any merit is liable to be dismissed.

65. The learned tribunal, after hearing the parties, has framed following issues, relevant of present lis, is quoted as under:

I. Whether the benefits of MACP can be extended beyond the hierarchy of the posts in the cadre and can be more than the Grade Pay of promotional post?

II. Whether the case of Delhi Nurses Union can be applied to the applicant who belongs to the Eastern Railway?

66. So far first issue i.e., *Whether the benefits of MACP can be extended beyond the hierarchy of the posts in the cadre and can be more than the Grade Pay of promotional post*, is concerned, the learned tribunal has taken note of the fact that the issue has already been decided by Division Bench of CAT in OA No. 598 of 2019 [Mitali Ghosh Vs. UOI & Ors] vide order dated 20.04.2015, and there is nothing on record so that the judgment be reversed, as such decided the issue against the

applicants. For ready reference, relevant portion of the judgment is quoted as under:

“There is nothing on record that the above judgment has been reversed in review by this Bench or set aside by any higher forum and the above order has become final. Judicial discipline does not permit us to change the above order which decided that the MACP benefits cannot be more than Rs.5400 as Grade Pay as ANO (Asstt. Nursing Officer) which is promotional post to Chief Matron carries the Grade Pay of Rs.5400/-.

Accordingly to the question of whether benefits of MACP can be extended beyond the hierarchy of the post in the cadre, the answer can never be other than in the negative.

*The Bench of this CAT have held in OA No.598/2014 (supra) that MACP benefit cannot be given at a Grade Pay higher than the promotional posts or beyond promotional hierarchy available in the cadre. This view was upheld by the Hon'ble Delhi High Court in WP(C) No. 3420/2010 (R.S.Sengar & Ors. -vs- UOI & Ors.) dated 4.4.2011 wherein it has been hld to put it pithily the MACP scheme requires **the hierarchy of Grade Pay to be adhered to and not the Grade Pay in the hierarchy of posts.**'*

xxx xxx xxx

Accordingly we conclude that Grade Pay of the applicant should be fixed at Rs.5400/ - from 1.9.2008 and not Rs.6600/.”

67. So far second issue i.e., Whether the case of Delhi Nurses Union can be applied to the applicant who belongs to the Eastern Railway, is concerned, relevant portion of finding as has been given is quoted as under:

“In order to strengthen the arguments, the Id. Counsel for the applicants has taken the support of the decision of the

Hon'ble High Court of Delhi dated 24.8.12 rendered in the case of Union of India —vs- Delhi Nurses Union (Regd.) & Anr. In WP(C) No. 5146/2012. The direction in the above judgment cannot be taken assistance of in the present cases because the hierarchy in Nursing Cadre for the Delhi Nurses Union, the Nurses of which are employed in the Central Government Hospitals is different from the hierarchy of the Nurses of the Eastern Railway. The promotional hierarchy of the Railway Nursing cadre of Medical Department consists of the following:

Staff Nurse GP Rs.4600

Nursing Sister : GP Rs.4800/-

Chief Matron GP Rs.5400/-

Assistant Nursing Sister: GP Rs.5400/-

There are no other designation of Nursing Personnel in the Eastern railways. But in Government Hospitals in Delhi there are two other designations carrying GP Rs.6600/- and Rs.7600/-. The designations of structure of Nursing Staff as per Finance Department's Notification dated 29.8.2008 is as under:

Staff Nurse : GP Rs.4600/-

Nursing Sister : GP Rs.4800/-

Assistant Nursing Sister :GP Rs.5400/-

Deputy Nursing Sister : GP Rs.5400/-

Nursing Superintendent: GP Rs,6600/-

Chief Nursing Officer : GP Rs,7600/-

Thus from the post of Assistant Nursing Superintendent and Deputy Nursing Sister, higher posts are available in the hierarchy with Grade Pay of Rs.6600/- and Rs.7600/- whereas, in the present cases hierarchy ends with the post of ANO carrying the GP of Rs.5400/- and as discussed earlier, the benefits of financial upgradation cannot be higher than the benefit available on normal promotions.”

68. In view of the finding so recorded by the tribunal, the Original Application being OA No. 1286 of 2013 was dismissed vide order dated 27th February, 2017.”

69. The applicants being aggrieved with the order passed by the tribunal approached the Calcutta High Court by filing W.P.C.T. No. 123 of 2017, which was allowed holding as under:

“In our judgment dated 14th June, 2017 we have decided the same issue as involved in the original application being OA-1286 of 2013 and have held that the benefits of MACP can be extended beyond the hierarchy of the posts of the cadre and can be of a quantum more than the Grade Pay of the promotional post and have observed that the petitioners therein are entitled to the grant of third financial upgradation in the Grade Pay of `6,600/- and the respondents therein were directed to refund the amount as withdrawn from the salary of the petitioners therein within a period of four weeks.

Accordingly, the impugned order dated 27th February, 2017 passed in the original application, being OA-1286 of 2013, is set aside so far as the petitioner is concerned and the respondents are directed to grant the benefits to the petitioner as granted by our judgment dated 14th June, 2017 delivered in WPCT 98 of 2015 and other connected matters.

70. Aggrieved thereof, the Union of India through Railways approached Hon’ble Apex Court by filing Civil Appeal No. 3321 of 2018 and other analogous cases, which was allowed vide order dated 27th March, 2018 up-holding the order passed by the tribunal and it has been held as under:

5. *In our opinion, the view taken by the High Court that the respondents are entitled to grade pay higher than what they may get on actual promotion in the hierarchy cannot be sustained. The High Court erred in distinguishing the judgment on the ground that the same related to ACP Scheme. We do not find any reason to exclude the principle laid down therein for interpretation of MACP.*

Moreover, clarification referred to above fully supports this interpretation.

Accordingly, the impugned order(s) is set aside and the appeals filed by the Union of India are allowed.

However, we make it clear that no payments already made will be recovered from the respondents.

71. Now coming to the order/judgment, upon which much emphasis has been laid down by learned counsel for the respondents i.e., applicants of Original Application No. 51/0027/2014, basis upon which the impugned order has been passed by the learned tribunal also requires to be discussed.

72. In Original Application No. 51/0027/2014 [*Kawish Kumar & Ors Vs. Union of India & Ors.*], the applicants were the Cadre of Guard, under the Division of Dhanbad Division of East Central Railway.

73. In that Original Application, the applicants made out the case that after formulation of the MACP Scheme, the applicants were extended the benefits of the same vide order dated 18.05.2010 in the scale of Rs.4600/4800/-. However, in the light of Railway Board letter dated 10.02.2011, they were informed that their

financial up-gradation was being reviewed. Subsequently, vide different orders as contained in Memo No.27.09.2011, the applicants were informed by the office of Senior Divisional Personnel Officer, East Central Railway, Dhanbad that financial up-gradation granted to them under MACP order is being reviewed and accordingly their pay shall be reviewed. Being aggrieved thereof, the concerned applicants [*Kawish Kumar & Ors Vs. Union of India & Ors.*] approached the Central Administrative Tribunal, Patna Bench, Circuit Bench, Ranchi. The said applicants have taken the ground that similar financial up-gradation given to the employees of Railways has been agitated before the Ernakulam bench of the Central Administrative Tribunal as well as before the Allahabad Bench and both the tribunals declared vide orders dated 22.02.2012 in O.A. No. 484 of 2011 and order dated 24.09.2012 in O.A. No. 1241 of 2011 respectively, the action of the respondents-railway illegal and directed to grant the up-gradation under the MACP Scheme.

74. In the said original application [Original Application No. 51/0027/2014], the applicants have also drawn attention to the judgment dated 25.02.2014 passed in O.A. No. 721 of 2012 of Tribunal of Patna

Bench and submission was made that the case of the applicants stands on same footing.

75. The tribunal, taking into consideration the entire gamut of the matter, allowed the Original Application vide order dated 14th January, 2015, which was affirmed up-to Hon'ble Apex Court. The relevant paragraph of the order dated 14th January, 2015, passed in OA No. 051/00027/2014 is quoted as under:

“5. In view of the above, this Tribunal holds that the prayer of the applicants in this OA is both just and justifiable. As such, reliefs prayed for in para 8 of this OA are allowed in full. The Impugned orders referred to in paras 8 [a], [b] and [c] are quashed and set aside. Further, the respondents are directed to restore the financial upgradation granted under MACP to the applicants within a period of three months from the date of receipt /communication of this order. It is reiterated that the ruling of this Tribunal is based on the orders dated 22.02.2012 and 24.09.2012 passed by Ernakulam Bench and Allahabad Bench of this Tribunal in similar matters; that these Rulings have stood the test of time and scrutiny. That the decision of Hon'ble High Court, Allahabad in CWJC No. 18244 of 2013, decided on 19.07.2013, stands testimony to this foundation.

6. In sum, this OA succeeds and stands disposed in terms of above, with no order as to costs.”

76. From the case laws, as discussed above and as cited by the parties, it is evident that emphasis upon which has laid down by learned counsel for the writ petitioners-railway i.e., on the judgment/order passed by Hon'ble Apex Court in Civil Appeal No. 3328-

3329/2018 with analogous cases, wherein the Hon'ble Court vide its judgment dated 27.03.2018 has held *that the employee are not entitled to Grade pay higher than what they may get on actual promotion in hierarchy.* From the factual aspect involved in that case, it is evident that the matter is of different cadre of Railways i.e., of Nurse Cadre of Govt. Railway Hospital whereas the present case relates to the Guard Cadre. From the tabular chart, as depicted in the preceding paragraphs, it is evident that on joining the post of Goods Guard only one hierarchical promotional scale i.e., in the scale of Rs. 4200 Grade pay has been shown for next three hierarchical posts i.e., the post of Sr. Goods Guard/Passenger Guard/Sr. Passenger Guard to Mail/Express Guard.

77. The law is well settled that applicability of the judgment depends upon facts governing each case. Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in ***Dr. Subramanian Swamy vs. State of Tamil Nadu & Ors*** reported in **(2014) 5 SCC 75**, for ready reference, the relevant paragraph of the aforesaid judgment, is being quoted as under :

"47. It is a settled legal proposition that the ratio of any decision must be understood in the background of the facts of that case and the case is only an authority for what it actually decides, and not what logically follows

from it. "The court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed."

78. Thus, the judgment cites by learned CGC appearing for the petitioners will not at all applicable in the case at hand, rather, the case law cited by the respondents-applicants is applicable.

79. The issue, as framed by this Court is answered against the petitioners-railways.

80. In Original Application OA No. 051/00027/2014, the applicants had sought same and similar relief after formulation of the MACP Scheme, the applicants were extended the benefits of the same vide order dated 18.05.2010 in the scale of Rs. 4600/4800/-. However, in the light of Railway Board letter dated 10.02.2011, they were informed that their financial up-gradation was re-casted/reviewed vide Memo No.27.09.2011. The said applicants have taken the ground that similar financial up-gradation given to the employees of Railways has been agitated before the Ernakulam bench of the Central Administrative Tribunal as well as before the Allahabad Bench and both the tribunals declared vide orders dated 22.02.2012 in O.A. No. 484 of 2011 and order dated 24.09.2012 in O.A. No. 1241 of 2011 respectively, the action of the respondents-railway illegal

and directed to grant the up-gradation under the MACP Scheme. The said Original Application filed before the Patna Bench was allowed and affirmed up-to Hon'ble Apex Court.

81. The original applicants, the respondents herein on the strength of order passed in Original Applicants being O.A. No. 051/00027/2014 filed Original Application OA/051/01142/2019 before the learned Central Administrative Tribunal, Patna Bench, Circuit Bench, Ranchi, which was allowed, which is impugned herein. The relevant portion of the judgment is quoted as under:

***“23** In view of the above mentioned letters it is evident that the applicants are very much entitled for the MACP and also in view that the other similarly situated employees are getting benefit of the MACP in the Grade Pay of 24600/4800 as may be applicable to them and therefore the frivolous ground taken by the respondents that since the applicants were not the party in the carlier OA, as such, they are not entitled for the same relief does not have any leg to stand in the eye of law.*

***24.** Heard the learned counsel for the parties and also perused the relevant papers made available to us during the pleadings by them.*

***25.** It is noted that issues and facts in the present OA are squarely covered with the order dated 14.01.2015 passed by this Tribunal in OA/051/00027/2014. The order dated 14.01.2015 passed in the said OA No. 27/2014 was challenged before the Hon'ble High Court of Jharkhand judiciary at Ranchi in WP(S) 4754 of 2015 and the Hon'ble High Court dismissed the said WP vide its order dated 10.03.2016 passed by the Hon'ble High Court of Jharkhand at Ranchi. However, the Hon'ble Supreme*

Court dismissed the said SLP vide its order dated 24.03.2017. Subsequently, the respondents filed Review Petition (C) No. 386 of 2018 in SLP (C) No. 31519 of 2017 before the Hon'ble Supreme Court and the said Review Petition was also dismissed by the Hon'ble Supreme Court vide its order dated 20.02.2018.

26. *From the above, it is understood that order dated 14.01.2015 passed by this Tribunal in OA No. 27/2014 wherein the issues and facts are identical to the facts and issues involved in the present OA acquires its finality. This Tribunal holds that the prayer made in para 8 of the OA of the applicants is just and justifiable*

27. *In view of the above, applicants are entitled to the relief sought by them at para 8 of the OA as mentioned in para 1 above. Resultantly, letter/order dated 02.08.2019 signed by the St. Divisional Personnel Officer, East Central Railway, Dhanbad Division, Dhanbad, whereby and whereunder the benefits of the MACP to the Grade Pay of Rs. 4600-4800 has been denied is quashed. Respondents are hereby directed to give benefit of MACP to the Grade Pay of Rs 4600-4500 including other entire consequential benefits to the applicants of this OA on the similar footing/lines as granted to the applicants of OA No. 051/00027/2014.*

28. *OA is allowed and stands disposed of in terms of above order, with no order as to costs."*

82. This Court, after discussing the aforesaid fact coupled with the legal issues and advertent to the finding recorded by the tribunal in the impugned judgment, has found that all aspects of the matter has been taken into consideration by the tribunal and thereafter the impugned order has been passed.

83. This Court, based upon the aforesaid consideration made by the learned tribunal and the reason assigned therein, is of the view that the order passed by the learned tribunal cannot be said to suffer from error and requires no interference, since it is not coming under the fold of error apparent on the face of order.

84. Accordingly, this Court is not inclined to exercise the power of judicial review so as to interfere with the order passed by the learned tribunal.

85. Accordingly, the instant writ petition stands dismissed.

86. Pending Interlocutory Applications, if any, also stand disposed of.

I Agree

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

21st April, 2026

A.F.R./Alankar/-

Uploaded on 21.04.2026