230

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10676-2021
DECIDED ON:27.01.2026

ANIL KUMAR AND OTHERS

.....PETITIONER(S)

VERSUS

UNIION OF INDIA AND OTHERS

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. RD Bawa, Advocate
Mr. Samuel Gill, Advocate
Mr. Rishabh Rana, Advocate
Mr. Randhir Bawa, Advocate for the petitioner

Mr. Shivoy Dhir, Advocate (Through hybrid mode)
for respondents

SANDEEP MOUDGIL, J (ORAL)

Prayer

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking quashing of para no. 20 of the Annexure-I to the MACP Scheme dated 19.05.2009 (Annexure P-3) prohibiting step up of pay at level of pay of juniors is fixed and order dated 09.04.2014 (Annexure P-4) and select list of MACP for 2015-16 (Annexure P-5) and order dated 17.04.2018 (Annexure P-6) to the extent same have placed the petitioners in MACP-III while granting pay of Rs, 4600/- after their promotion to the post of Suptd. Br. II in violation of clarification by PCDA (BR) vide letter dated 30.11.2012 (Annexure

P-9) and letter dated 10.12.2012 (Annexure P-10) issued by the DGBR-respondent no. 2.

Brief Facts

2. The petitioners were appointed as Lower Division Clerks (LDCs) between 1989 and 1995. Their normal promotional channel from LDC is to the post of Upper Division Clerk (UDC). Under the ACP Scheme introduced pursuant to the 5th Central Pay Commission, the petitioners, having not received promotion within 12 years, were granted ACP-I in the pay scale of Rs.4000–6000/-, attached to the post of UDC.

3. During service, the petitioners acquired a Diploma in Civil Engineering from CME, which entitled them to promotion by a special channel, to the post of Superintendent BR-II, later redesignated as JE (Civil), carrying a higher and distinct pay scale of Rs.5000–8000/-, subsequently revised to Rs.9300–34800/- with Grade Pay Rs.4200/-.

4. Several employees junior to the petitioners were appointed as LDCs later in point of time, acquired the CME Diploma subsequently, and were promoted to the post of Suptd. BR-II/JE (Civil) after the petitioners. The petitioners are admittedly senior to them in the LDC seniority list. With the introduction of the MACP Scheme pursuant to the 6th Central Pay Commission, financial upgradations became admissible after 10, 20, and 30 years of service in the next hierarchical grade pay. The MACP Scheme has been made applicable w.e.f. 01.01.2006.

5. The Principal Controller of Defence Accounts (in short as PCDA (BR)), vide clarification dated 30.11.2012 (Annexure P-9), held that promotion from LDC to Suptd. BR-II/JE (Civil) on the basis of acquiring CME Diploma shall be treated as first financial upgradation, and the earlier ACP-I granted in the

UDC pay scale was to be ignored. This clarification was directed to be implemented by the DGBR-respondent no. 2. Despite the above clarification, when the petitioners were granted Grade Pay Rs.4600/-, they were shown as having received MACP-III, whereas their juniors, granted the same Grade Pay Rs.4600/-, were correctly placed in MACP-II. The respondent no. 2 wrote to the PCDA (BR) vide letter dated 12.10.2016 (Annexure P-13), themselves acknowledging the existence of an anomaly, as seniors were placed in MACP-III while juniors were placed in MACP-II at the same grade pay. Representations made by the petitioners seeking correction were not decided. Hence, the present petition.

Contentions
On behalf of the petitioners

6. Learned counsel for the petitioners submits that the petitioners are admittedly senior in the LDC cadre to R. Krishna Murthi and others and that the said juniors were promoted to the post of Suptd. BR-II/JE (Civil) after the petitioners.

7. It is contended that the PCDA (BR), vide clarification dated 30.11.2012, has categorically clarified that promotion from LDC to Suptd. BR-II/JE (Civil) on acquisition of CME Diploma is to be treated as first financial upgradation, and that the earlier ACP-I granted in the UDC pay scale is required to be ignored for the purpose of further ACP/MACP benefits.

8. Learned counsel has argued that despite the said clarification having been adopted by the DGBR vide letter dated 10.12.2012, the petitioners were wrongly treated as having availed three financial upgradations, and were consequently placed in MACP-III while granting them Grade Pay Rs.4600/-.

9. It is further argued that the juniors of the petitioners, who were appointed later and promoted later, were granted the same Grade Pay of Rs.4600/- but were correctly placed in MACP-II, thereby resulting in an anomaly where seniors and juniors draw the same grade pay but are placed in different MACP stages.

10. Learned counsel has urged that the respondents themselves acknowledged the existence of such anomaly and sought clarification from the competent authority; however, the anomaly was not rectified in the case of the petitioners.

11. It is further contended that once the promotion to the post of Suptd. BR-II/JE (Civil) is treated as first financial upgradation, the grant of Grade Pay Rs.4600/- could only be treated as second financial upgradation, and placement of the petitioners in MACP-III is contrary to the applicable rules and clarifications.

12. Learned counsel submits that the action of placing seniors in MACP-III while placing juniors in MACP-II at the same grade pay is unsustainable and has resulted in incorrect fixation of MACP benefits in the case of the petitioners.

On behalf of respondents

13. Learned counsel for the respondents submits that the ACP Scheme, introduced vide O.M. dated 09.08.1999 (Annexure P-2), and later replaced by the MACP Scheme vide O.M. dated 19.05.2009 (Annexure P-3), governs the field and provides for financial upgradations strictly in accordance with the number of upgradations already availed by an employee.

14. It is submitted that all petitioners were appointed as LDCs and, on completion of 12 years of service, were granted ACP-I and subsequently, upon acquiring the CME Diploma, were promoted again and such promotion constitutes their second financial upgradation. However, it is contended that the clarification

issued by the PCDA (BR) dated 30.11.2012 only states that promotion from LDC to Suptd. BR-II after acquiring CME Diploma is to be treated as a financial upgradation; however, the said clarification does not direct that the ACP benefits already granted while holding the post of LDC are to be ignored.

15. Learned counsel urged that since the petitioners had already availed two financial upgradations, namely (i) ACP-I as LDC and (ii) promotion to Suptd. BR-II/JE (Civil), the grant of MACP-III on completion of the prescribed period is strictly in accordance with the MACP Scheme and existing policy.

16. It is further submitted that the petitioners are incorrectly comparing their case with certain other employees who were promoted to the post of Suptd. BR-II/JE (Civil) before completion of 12 years of service and, therefore, had not availed ACP-I while holding the post of LDC as in the case of such employees, their promotion to Suptd. BR-II was treated as first financial upgradation, and consequently they were granted MACP-II on completion of 20 years of service, which is in consonance with the MACP guidelines.

17. Thereby while contending that the difference in MACP stage between the petitioners and the employees relied upon by them arises due to difference in service history, and not on account of any anomaly or incorrect application of rules it is submitted that the petitioners, having already availed the benefits of ACP-I and promotion, are not entitled to seek re-designation of MACP-III as MACP-II, and the impugned MACP orders are legal and valid.

Analysis

18. The controversy in the present case turns on the manner in which financial upgradations under the ACP/MACP framework are to be counted, particularly where an employee has traversed a non-standard promotional channel

on acquisition of an additional qualification during service. The resolution of the dispute requires an examination of the object, structure, and internal logic of the ACP and MACP Schemes, rather than a mere arithmetical counting of upgradations.

19. The legislative and policy intent underlying the ACP and MACP Schemes assumes critical importance in resolving the present dispute. Both schemes were conceived as anti-stagnation measures. The ACP Scheme, introduced pursuant to the recommendations of the Fifth Central Pay Commission, sought to mitigate hardship caused by limited promotional avenues in rigid hierarchies. It was never intended to create artificial classifications among employees similarly situated, nor to penalize those who, due to structural constraints, were compelled to await promotional opportunities. The MACP Scheme, introduced after the Sixth Central Pay Commission, further refined this objective by shifting the focus from promotional posts to grade pay hierarchy, thereby ensuring uniform and time-bound financial progression. The intent was to provide relief against stagnation in a structured and equitable manner, not to multiply technical distinctions based on sequencing of prior benefits.

20. Any interpretation that mechanically counts upgradations in a manner contrary to clarificatory instructions, and thereby produces disparity between seniors and juniors holding the same post and drawing the same grade pay, would defeat the very spirit of the policy. The scheme is remedial in nature and must be implemented in a manner that advances its object of fairness and career progression rather than frustrating it through hyper-technical construction.

21. It is an undisputed position that the petitioners were initially appointed as LDCs, were granted ACP-I in the UDC scale upon completion of 12

years of service, and thereafter, on acquiring the CME Diploma, were promoted to the post of Suptd. BR-II/JE (Civil). The respondents' action in placing the petitioners in MACP-III at the stage of Grade Pay Rs. 4600/-, while simultaneously acknowledging that their juniors at the same grade pay were placed in MACP-II, reveals an internal inconsistency in application. Significantly, the respondents themselves, in their communication dated 12.10.2015 (Annexure P-13), admitted that an anomaly had arisen inasmuch as seniors were reflected in MACP-III while juniors were shown in MACP-II at the same grade pay. This acknowledgment fortifies the conclusion that the computation adopted in the case of the petitioners was not in consonance with the intended operation of the scheme.

22. The central issue arises from the clarification dated 30.11.2012 (Annexure P-9) issued by the PCDA (BR), which unequivocally directed that promotion from LDC to Suptd. BR-II/JE (Civil) on acquisition of CME Diploma shall be treated as the first financial upgradation and that the earlier ACP-I granted in the UDC scale is to be ignored for the purpose of further ACP/MACP benefits. This clarification was issued as the cases of the petitioners was classified as an anomaly by the Department themselves. The relevant paragraph of the same has been reproduced hereunder:

> *"2. As it has been stated that acquiring the CME diploma by an individual is not sufficient for promotion to the grade of EM-2 or BR-2 and the grade pay of Rs.4200/- is incidental only on assumption of promotion to the grade of EM2 or BR-2 etc and not on more acquiring of Diploma from CMEs& is therefore opined that in such cases the promotion earned by an individual in the grade of EM-2 or BR-2 on acquiring Diploma from CME should be counted as first financial up-gradation and such individuals should now be considered for 2d and 3d MACP only. However the recruitment rules*

of the posts of the individuals regarding qualifications and next hierarchy of the posts may also be taken into consideration while granting financial up-gradation under MACPS.

3. In this regard please also refer to the clarification given under this office letter no. even dated 26.12.2011 (copy enclosed)."

23. Once the competent authority i.e. PCDA (BR) clarified that the promotion of the CME diploma holders shall be treated as the first financial upgradation and that ACP-I is to be ignored, for the implementation of the MACP Scheme, the respondents were bound to give full effect to that directive. The instruction to ignore ACP-I cannot be rendered illusory by continuing to count it while determining the MACP stage. Administrative circulars and clarifications, particularly those issued to remove ambiguity, must be applied in their entirety and a partial or selective implementation amounts to misapplication of policy.

24. The principle that executive policies must be implemented in a manner consistent with equality and rationality has been repeatedly affirmed. In ***"D.S. Nakara v. Union of India 1982 INSC 103"***, the Supreme Court held that a classification which results in unequal treatment of persons similarly situated would offend Article 14 of the Constitution. Likewise, in ***Er. Gurcharan Singh Grewal v. Punjab State Electricity Board 2009 (1) SCT 623***, it was reiterated by the Apex Court that anomalies in pay fixation which operate to the detriment of seniors vis-à-vis juniors must be rectified and cannot be permitted to continue, while observung that,

13. Something may be said with regard to Mr. Chhabra's submissions about the difference in increment in the scales which the appellant No. 1 and Shri Shori are placed, but the same is still contrary to the settled principle of law that a senior cannot be paid lesser salary than his junior. In such circumstances, even if, there was a difference in the incremental benefits in the scale given to the appellant No. 1 and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of the

> *appellant No. 1 was also stepped up to that of Shri Shori, as appears to have been done in the case of the appellant No. 2."*

25. Guidance may be derived from ***"Union of India v. C.R. Madhava Murthy 2022 INSC 397"***, wherein the Apex Court while observing that the implementation of financial upgradation schemes must conform strictly to the governing instructions, held that,

> *6. 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.*

26. This court is of the opinion that authorities cannot interpret policy in a manner that defeats its object or produces acknowledged anomalies. Judicial review, in such circumstances, does not trench upon policy-making but ensures fidelity to policy.

27. The reliance by the respondents on Para 20 of the MACP Scheme, which bars stepping up of pay merely because a junior draws higher pay on account of MACP, cannot justify the present action. Para 20 applies to disparities inherent in the personal nature of financial upgradation. However, where disparity arises not from the scheme itself but from its misapplication, the protective shield of Para 20 cannot be invoked. In the present case, once the PCDA (BR) clarified that the diploma-based promotion was to be treated as the first financial upgradation and ACP-I is was directed to be ignored, the grant of Grade Pay of Rs. 4600/- can logically correspond only to the second financial upgradation. To count

ACP-I despite an express directive to ignore it is to rewrite the clarification and to defeat the remedial object of the scheme. The anomaly having been expressly acknowledged by the respondents themselves, and the implementation being contrary to the binding clarification, the placement of the petitioners in MACP-III cannot be sustained in law.

28. Viewed holistically, the issue is not whether the petitioners have on paper received three financial upgradations, but whether the counting of such upgradations accords with the binding clarification dated 30.11.2012 (Annexure P-9) and the constitutional mandate that equals be treated equally. If the promotion to JE (Civil) is to be treated as the first financial upgradation and the earlier ACP ignored, the subsequent grant of Grade Pay Rs. 4600/- could logically correspond only to the second financial upgradation. To place seniors in MACP-III while juniors at the same grade pay are placed in MACP-II, solely because of the sequencing of earlier ACP grant, risks creating an artificial classification unrelated to the object of the scheme. Such an outcome would require careful judicial scrutiny to ensure that the implementation of the MACP framework remains consistent with its purpose, its clarifications, and the constitutional guarantee of fairness in public employment.

Conclusion

29. In view of the foregoing discussion, this Court is satisfied that the action of the respondents in placing the petitioners in MACP-III, despite the clarification dated 30.11.2012 (Annexure P-9) issued by the PCDA (BR) and adopted by the department, cannot be sustained. Accordingly, the petitioners are entitled to be placed in MACP-II at the stage corresponding to Grade Pay Rs. 4600/-, with all consequential benefits.

30. Accordingly, the present writ petition is allowed. The impugned orders dated 09.04.2014 (Annexure P-4) and 17.04.2018 (Annexure P-6), as well as the MACP select list for the year 2015-16 (Annexure P-5), are quashed to the limited extent they place the petitioners in MACP-III while granting Grade Pay of Rs. 4600/-. The respondents are directed to re-fix the MACP entitlement of the petitioners by treating their promotion to the post of Suptd. BR-II/JE (Civil) as the first financial upgradation in terms of clarification dated 30.11.2012 (Annexure P-9), and to place them in MACP-II at the stage corresponding to Grade Pay of Rs. 4600/-.

31. The respondents shall carry out the necessary re-fixation of pay and grant all consequential benefits, within a period of eight weeks from the date of receipt of a certified copy of this order.

32. The writ petition stands allowed in the above terms.

33. Pending application(s), if any, also stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

27.01.2026
Meenu

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No