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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 610/2021**

AJAY KUMAR SINGH

.....Petitioner

Through: Mr. Ankur Chibber, Mr. Anushman
Mehrotra, Advs.

versus

SHRI AJAY KUMAR BHALLA AND ORSRespondents

Through: Mr. Sanjay Kumar Pathak, SPC for
R-1 to 4.

Mrs. K. Kaomudi Kiran Pathak, Mr.
Sunil Kumar Jha, Mr. M.S. Akhtar,
Ms. Joohu Kumari, Advs.

Mr. Ajay Pal, Law Officer with Insp.
Athurv and Mr. Ramniwas Yadav,
CRPF.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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08.04.2026

1. This hearing has been done through hybrid mode.
2. The present petitions under Sections 11 and 12 of the Contempt of Courts Act, 1971 seeks the following prayers: -

“i. Pass an order issuing the contempt against the Respondents and punish them in accordance with law for the contempt of the judgment dated 25.02.2021 passed in W.P.(C) 2610/2021; and

ii. Pass any such orders as the Hon'ble Court may deem fit in the light of the above mentioned facts and circumstances of the case.”

3. *Vide* judgment dated 25.02.2021 in W.P. (C) 2610/2021, learned Division Bench of this Court had passed the following directions: -

“4. It is pertinent to mention that the petitioners have preferred the present writ petition to primarily seek a mandamus to the respondents to grant the benefit of the First and Second financial



upgradation under the ACP scheme with effect from completion of 12 years and 24 years and the third MACP on completion of 30 year of service. It is claimed that wherever the second Financial upgradation is granted under the second MACP, the same shall be granted in the Pay Band of Rs.9300-34800 with Grade Pay of Rs.4200 w.e.f. 01st January, 2006 and wherever 20 years have been completed or the dates mentioned in the prayer clause along with consequential benefits including arrears. The petitioners' claim is based upon the decision of the Supreme Court in the case of **Union of India and Ors. Vs. Balbir Singh Turn & Anr.**, Civil Appeal Diary No.3744/2016 along with other cases decided on 08th December, 2017. The petitioners also place reliance on the decision of the Division Bench of this Court in **Sunil Kumar Tyagi vs. Union of India & Anr.**, W.P. (C) No.3549/2018 decided on 01st May, 2019, **Jaswant Singh v. Union of India.**, WP(C) No. 22 of 2015 decided on 05.01.2015 as well as **Jai Pal Singh v. Union of India** decided on 06.09.2013 in WP(C) No. 5539/2015 and **Indian Ex-Bordermen Movement and Ors v. Union of India and Ors.** decided on 03.02.2020 in WP(C) No. 7447/2019.

5. As admittedly there is no interim order passed by the Supreme Court in any of the Special Leave Petitions filed by the Union of India in similar matters, we dispose of the present writ petition in similar terms as passed in W.P.(C) No.6437/2019 i.e. a direction to the respondents to consider the petitioners' claim in the light of the judgments in **Union of India and Ors. Vs. Balbir Singh Turn & Anr. (supra)** and **Sunil Kumar Tyagi vs. Union of India & Anr (supra)**, **Union of India & Ors. vs. M. V. Mohanan Nair, (2020) 5 SCC 421** as well as **Jaswant Singh v. Union of India.**, WP(C) No. 22 of 2015 decided on 05.01.2015 as well as **Jai Pal Singh v. Union of India** decided on 06.09.2013 in WP(C) No. 5539/2015 and **Indian ExBordermen Movement and Ors v. Union of India and Ors.** decided on 03.02.2020 in WP(C) No. 7447/2019 and to dispose of the representations of the petitioners positively within twelve weeks from today. It is clarified that in the event the Supreme Court varies or set asides the order passed by the Division Bench in **Sunil Kumar Tyagi vs. Union of India & Anr (supra)** and/or any other similar matter, then the present order shall abide by the order(s) of the Apex Court.”

4. Reply affidavit dated 01.12.2021 has been filed on behalf of the



respondent Nos.1 to 4 in which it has been stated as under: -

“8. That it is pertinent to mention here that vide judgment/order dated 05.03.2020 passed in Civil Appeal No. 2016/2020 (arising out of SLP(C) No.21803/2014) titled Union of India Vs M. V. Mohanan Nair reported in (2020) 5 see 421 and other connected appeals, a bench of 3 Hon'ble Judges of the Hon'ble Supreme Court has allowed the appeal filed by UOI/Deptt and has held that as per the prevailing Rules of MACP Scheme, financial upgradation is to be granted to immediate next higher Grade Pay and not the Grade Pay in the next promotional hierarchy. The Hon'ble Supreme Court has also held as under:-

"56. The AGP Scheme which is now superseded by MACP Scheme is a matter of government policy. Interference with, the recommendations of the expert body like the Pay Commission and its recommendations for the MACP Scheme, would have serious impact on the public exchequer. The recommendations of the Pay Commission for MACP Scheme has been accepted by the Government and implemented. There is nothing to show that the Scheme is arbitrary or unjust warranting interference. Without considering the advantages in the MACP Scheme, the High Courts erred in interfering with the Government's policy in accepting the recommendations of the Sixth Central Pay Commission by simply placing reliance upon Raj Pal case. The impugned orders cannot be sustained and are liable to be set aside."

True copy of the judgment dated 05.03.2020 of Hon'ble Supreme Court passed in Union of India Vs M. V. Mohanan Nair reported in (2020) 5 SCO 421 and other connected appeals is annexed as **ANNEXURE R-1**.

9. That it is further clear that the earlier AGP Scheme was withdrawn w.e.f. 01.09.2008 and the same stood superseded by the MACP Scheme with effect from 01.09.2008. Hence, the prayer of petitioners for sanctioning of MACP benefits w.e.f. 01/01/2006 is not at all tenable and not in accordance with the relevant rules on the subject. Moreover, the ACP and MACP scheme cannot run concurrently.



10. That on the SLP/Civil Appeal filed by UOI/Deptt., the Hon'ble Supreme Court while allowing the C.A. No. 1579/2021 (arising from SLP (C) No. 15572/2019) titled Union of India Vs R.K. Sharma and Others reported in (2021) 5 see 579 and other connected appeals, vide judgment/order dated 28.04.2021, has categorically held as under:-

"10. In MX Mohanan Nair a three-Judge Bench of this Court considered the ACPS as well as the MACPS to hold that the schemes are in the nature of incentive schemes which were brought into force to relieve stagnation. This Court was of the considered view that the respondents therein were entitled only to the benefit of next grade pay in the pay band and not to the benefit of grade pay of next promotional post. As the MACPS is a matter of government policy pursuant to the recommendations made by the Pay Commission, this Court refused to accept submissions of the employees that MACPS should be made applicable with effect from 1-1-2006.

11. In view of the judgment of this Court in M.V. Mohanan Nair, the respondents and other similarly situated employees are entitled for financial upgradation under MACPS only to the next grade pay and not to the grade pay of a next promotional post. It is clear from the Resolution dated 30-8-2008 that the recommendation of the 6th Pay Commission was accepted by the Government and was made effective from 1-1- 2006 in respect of civilian employees with regard to revised scales of pay and dearness allowances. Insofar as the revised allowances other than dearness allowance, recommendations of the 6th Pay Commission were given effect from 1-9- 2008. The judgment in M.V. Mohanan Nair clinches the issue. Benefits flowing from ACP and MACP Schemes are incentives and are not part of pay. The Resolution dated 29-8-2008 is made effective from 1-9-2008 for implementation of allowances other than pay and DA which includes financial upgradation under ACP and MACP Schemes. Therefore, the respondents and other similarly situated officers are not entitled to seek implementation of the benefits of MACPS with effect from 1-



1-2006 according to the Resolution dated 29-8-2008. Moreover, the implementation of MACPs by granting financial upgradation only to the next grade pay in the pay band and not granting pay of the next promotional post with effect from 1-1-2006 would be detrimental to a large number of employees, particularly those who have retired. We find force in the submission made by the learned Additional Solicitor General that uniform implementation of MACPS for civilian employees with effect from 1-1-2006 would result in large-scale recoveries of amounts paid in excess.

12. In view of the above, we set aside the judgment of the High Court and allow these appeals.

Civil Appeals Has. 1592 of 2021 [arising out of SLP (C) No. 12033 of 2020], 1597 of 2021 [arising out of SLP (C) No. 12640 of 2020], 1600 of 2021 [arising out of SLP (C) No. 15772 of 2020], 1603~609 of 2021 [arising out of SLPs (C) Nos. 913-19 of 2021], 1599 of 2021 [arising out of SLP (C) No. 15150 of 2020]."

True copy of the judgment dated 28.04.2021 of Hon'ble Supreme Court passed in Union of India Vs R.K. Sharma and Ors. reported in (2021) 5 SCC 579 and other connected appeals is annexed as **ANNEXURE R-2.**

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12. That from the above, it can be seen that the Hon'ble Supreme Court has also squarely denied to interfere in the recommendations / policy matters of expert body i.e. pay commission which is applicable to the present case also as the petitioner in his writ petition has in effect sought to reopen the recommendations/policy matters of same expert body of Pay Commission despite their pension has been revised according to the provisions of pay commission/DoP&T and GoI orders.

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14. That vide judgment/order dated 25.02.2021, this Hon'ble Court has clarified that in the event the Supreme Court varies or set asides the order passed by the Division Bench in Sunil Kumar Tyagi vs.



Union of India & Anr (supra) and/or any other similar matter, then the present order shall abide by the order(s) of the Apex Court. It is submitted that the case of petitioner herein is covered by judgment and order dated 28.04.2021 passed in R.K. Sharma case (supra) by the Hon'ble Supreme Court whereby it is held that MACP scheme shall be applicable w.e.f. 01.09.2008 instated of 01.01.2006 and has set aside the orders passed by this Hon'ble Delhi High Court.”

5. As noted hereinabove, learned Division Bench while passing the directions had categorically clarified that in the event the Supreme Court varies or set aside the order passed by the learned Division Bench in **Sunil Kumar Tyagi v. Union of India & Anr (supra)** and/or any other similar matter, then the said order passed by learned Division Bench shall abide by such order(s) of the Hon'ble Supreme Court.

6. Learned counsel appearing on behalf of the petitioner fairly submits that the judgment of the Hon'ble Supreme Court in **M.V. Mohanan Nair (supra)** was rendered in similar situation, and in view of the same, he seeks leave to withdraw the present petition with liberty to initiate appropriate proceedings as available in law before the Court of competent jurisdiction/appropriate forum.

7. Leave and liberty granted.

8. The present petition is dismissed as withdrawn and disposed of.

9. Pending application(s), if any, also stand disposed of accordingly.

10. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

APRIL 8, 2026/kr