IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

JUSTICE SHRI MANOJ KUMAR TIWARI

AND

JUSTICE SHRI PANKAJ PUROHIT

Writ Petition No. 320 (S/B) of 2015

Union of India & Others ..... Petitioners

Vs.

Central Administrative Tribunal & Others ..... Respondents

With

Writ Petition No. 321 (S/B) of 2015

Union of India & Others ..... Petitioners

Vs.

Central Administrative Tribunal & Others ..... Respondents

11TH June, 2024

Present:-

Mr. V. K. Kaparuwan, learned Standing Counsel for the Union of India/petitioners.

Mr. Parikshit Saini along with Mr. S. K. Pandey, learned counsel for the respondent nos. 2 to 170.

JUDGMENT: (per the Justice Shri Manoj Kumar Tiwari)

Private respondents in these petitions had approached Central Administrative Tribunal, Allahabad, by filing two Original Applications, which were decided in their favour by separate judgments dated 07.04.2015. Challenging the said judgments, Union of India has filed these writ petitions in which, the orders passed by learned Tribunal rejecting the Review Application of Union

of India are also challenged.

2. Since common questions of law and fact are involved in these petitions, therefore, they are being heard and decided together. However for the sake of brevity, facts of Writ Petition No. 320 (S/B) of 2015 alone are being considered and discussed.

3. Private respondents (169 persons) serving as Highly Skilled Workman in Opto Electronics Factory, Raipur, Dehradun approached Central Administrative Tribunal claiming Grade Pay of Rs. 4200/- on completion of 20 years of service, by filing Original Application No. 331/00023 of 2014 *(Arvind Kumar Srivastava and 168 others vs. Union of India and others)*. The reliefs sought by them in their Original Applications are reproduced below:-

> *"8.1 This Hon'ble Tribunal may graciously be pleased to issue a writ order or direction in the nature of certiorari quashing the impugned orders dated 01.12.2010, 13.12.2010 and 20.06.2011 (Annexure A-I, A-2 and A-3 to the OA) to the extent it treats the grade pay of Rs. 2800/- as promotion for the purpose of ACP/MACP.*
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> *8.2 This Hon'ble Tribunal may graciously be pleased to issue a writ order or direction in the nature of mandamus directing the respondents to grant the IInd Financial up-gradation to the applicants in the pay scale of 5,000-8,000 revised 9,300-34,800 grade pay of Rs. 4,200/-,*

Pay Band-2 with effect from the completion of 20 years of their service with all consequential benefits."

4. The said Original Application was heard and decided by learned Tribunal vide judgment dated 07.04.2015. The relevant paragraphs of the said judgment are reproduced below:-

"18. After a thorough examination of the pleadings and documents on record and written submissions and after due consideration of the case law cited on both sides, we find that the issue involved is that the applicants come under the purview of the MACP Scheme as they had not completed 24 years of service at the time of implementation of the MACP Scheme and hence, could not be covered under the erstwhile ACP Scheme. The Scheme mandates that the financial upgradation under the MACP is to be given in the next stage of hierarchy of the Grade Pay. In contrast the applicants are seeking the Grant of higher Pay Scales under the MACP Scheme and have made out a case to establish that the affect of the application of MACP Scheme as against the erstwhile ACP Scheme is working to their considerable financial detriment. It may not be possible to identify any infirmity as such, in the straight-forward interpretation of allowing financial upgradation as per the stipulated provisions of the MACP Scheme and according to the Grade Pay Structure recommended by the 6th Pay

Commission. It is also a persuasive argument that such Government Schemes are meant to ameliorate the hardships of Government employees due to long standing stagnation in their Pay Scales and should not ultimately inflict pecuniary disadvantage. The minutes of various meetings held between the senior officials of DOP&T and representatives of the applicants and others also indicate to a recognization of the anomaly existing herein which has obviously constrained the respondents to refer the matter to the National Anomaly Committee as well. We also find considerable strength in the arguments that the transition of a skilled employee from H.S. Gr.-2 (Grade Pay of Rs.2400/-) to H.S. Gr.-I (Grade Pay of Rs.2800/-) does not follow any of the recognized procedures of promotion and is based entirely on vacancies arising in the category of H.S. Gr.-I from time to time. Hence, this transition cannot be considered as a promotion and this has also been held so in a number of judicial pronouncements. We also take note of the observations of CAT Bangalore Bench, referred earlier and the fact as reported by the respondents that a petition has been filed before the Hon'ble High Court, New Delhi, against the order of CAT Principal Bench in Original Application No. 4101/2012. The submissions made by the respondents in para 11 of the Counter Affidavit are also Tribunal noteworthy.

19. However, we find that an appropriate decision by the Competent Authority, the National Anomaly Committee or the DOP&T has been delayed inordinately, thereby given rise to a multiplicity of litigations besides the perceptions of a continuing financial loss to a large number of employees such as the applicants.

20. The restructuring of the industrial cadre which was issued wide MOD letter No.11(5)/2009-D(Civ.I) dated 14.06.2010 is the structure in force in the department of the respondents as of today and which creates the hierarchy of Grade Pay as shown below:

Sl. No.	**Grade**	**Pay Band**	**Grade Pay**
I	Skilled	PB-I, Rs. 5,200-20,200	1900/-
II	Highly Skilled, Grade-II	PB-I, Rs. 5,200-20,200	2400/-
II	Highly Skilled, Grade-I	PB-I, Rs. 5,200-20,200	2800/-
IV	Master Craftman	PB-I, Rs. 9300-34,800	4200/-

21. In the light of the facts and circumstances stated above, we find that the department of the respondents as well as the DOP&T and the Government of India at the highest levels recognize the fact that the grievance of the

applicants have considerable merits and hence, it also recognizes the need to redress the same appropriately at a suitable platform of the Government of India. However, the prevarication shown by the DOP&T till now in not effectively addressing the issue in a time bound manner cannot be allowed to continue indefinitely.

22. We find that the present Original Application stands on a similar footing as O.A. No. 1038 of 2010 decided by CAT Chandigarh Bench on 31.05.2011. This order has been upheld by Hon'ble High Court of Punjab and Haryana also. Accordingly, we direct that the impugned orders dated 01.12.2010 and 20.06.2011 are quashed and set aside to the extent, these letters declare the Grade of Rs. 2800/- as promotion for the purpose of ACP and hence, by implication for purposes of MACP for those employees eligible for financial upgradation from the highly skilled category in the Grade Pay of Rs. 2400/-. As regards the grant of 2nd Financial Upgradation to the applicants in Pay Band-II, Grade Pay Rs. 4200/- w.e.f. the completion of 20 years of service, we direct the respondent's no. 1 and 2 to resolve this issue which is already pending before them within a period of three months from the date of receipt of a certified copy of this order, and implement the final resolution within this period."

5. Union of India has challenged this judgment under Article 226 of the Constitution. The sole contention raised by learned counsel for the petitioners is that the Artisan Cadre earlier consisted of three category of posts namely, (a) Skilled Workman, (b) Highly Skilled Workman and (c) Master Craftsman upto 01.01.2006, but thereafter, the intermediate level post of Highly Skilled Workman was bifurcated into two, namely, Highly Skilled Workman Grade-II and Highly Skilled Workman Grade-I with different pay scales, therefore, private respondents, who were serving as Highly Skilled Workman on 01.09.2008 (the date on which, Modified Assured Career Progression (MACP) scheme was introduced and became effective) are entitled to grade pay admissible for the next promotional post of Highly Skilled Workman Grade-I under MACP scheme and they are not entitled to pay scale of Master Craftsman, which is above the post of Highly Skilled Workman Grade- I.

6. Three posts, which constituted Artisan Cadre before its restructuring, with their pay scales, are as follows:-

Sl. No.	**Name of Posts**	**Grade Pay**
1.	Skilled Workman	1900/-
2.	Highly Skilled Workman	2400/-
3.	Master Craftsman	2800/-

7. It is not in dispute that restructuring of Artisan Cadre was done vide order dated 14.06.2010, although, it was made effective from 01.01.2006. The posts

constituting Artisan Cadre, after its restructuring, with their pay scales are mentioned below:-

Sl. No.	Name of Posts	Grade Pay
1.	Skilled Workman	1900/-
2.	Highly Skilled Workman Grade-II	2400/-
3.	Highly Skilled Workman Grade-I	2800/-
4.	Master Craftsman	4200/-

8. There is consensus between learned counsel for the parties that Assured Career Progression (ACP) scheme was introduced by the Central Government to ameliorate the problem of stagnation faced by Central Government Employees for want of promotional avenues.

9. It is not in dispute that Assured Career Progression (ACP) scheme remained effective till 31.08.2008, which was replaced by Modified Assured Career Progression (MACP) Scheme and the new scheme became effective from 01.09.2008.

10. Mr. V. K. Kaparuwan, learned counsel for the petitioners submits that under Assured Career Progression (ACP) scheme, Central Government employees were eligible for two Financial Upgradations during their service, upon completion of 12 years and 24 years of satisfactory service.

He further submits that under Modified Assured Career Progression (MACP) scheme, Central Government employees are entitled for three Financial Upgradations in their service career upon completing 10, 20 & 30 years of satisfactory service. Thus, he submits that since private respondents had not completed 24 years of satisfactory service on the post of Highly Skilled Workman till the time Assured Career Progression (ACP) scheme was enforced i.e. 31.08.2008, therefore, they are not entitled to get Grade Pay of Master Craftsman i.e. Rs. 4200/-, but are entitled to get Grade Pay of Rs. 2800/- admissible for the post of Highly Skilled Workman Grade-I.

11. Per contra, learned counsel appearing for respondent nos. 2 to 170 submits that Artisan Cadre was restructured only on 14.06.2010 and private respondents had completed 24 years of satisfactory service on the post of Highly Skilled Workman much earlier on 01.09.2008, therefore, they are entitled to get Grade Pay which is admissible for the post of Master Craftsman, notwithstanding bifurcation of the post of Highly Skilled Workman into two posts, namely, Highly Skilled Workman Grade-II and Highly Skilled Workman Grade-I.

12. This Court finds substance in the contention raised on behalf of private respondents. Bifurcation of the post of Highly Skilled Workman into Highly Skilled Workman Grade-II and Highly Skilled Workman Grade-I by order dated 14.06.2010 cannot have the effect of taking away the right of such Highly Skilled Workmen, who have already put in required length of service, for getting benefit of Assured Career Progression (ACP)

Scheme before restructuring of the Cadre made by order dated 14.06.2010. They (private respondents) were entitled to promotion as Master Craftsman and were thus, eligible to get Grade Pay of Master Craftsman.

13. It is not in dispute that private respondents became eligible to get Grade Pay of Master Craftsman on 01.09.2008, therefore, the Cadre restructuring made on 14.06.2010 will not have the effect of taking away their right to get Grade Pay admissible for the post of Master Craftsman even though, an intermediate level post of Highly Skilled Workman Grade-I was created by restructuring of Artisan Cadre.

14. Learned Tribunal has considered and discussed the matter in great detail and has given valid reasons for deciding the Original Application in favour of private respondents. The judgment rendered by learned Tribunal does not suffer from any illegality or perversity, which may warrant interference by this Court under Article 226 of the Constitution. Thus, there is no scope for interference in the matter, the writ petition fails and is dismissed.

15. There will be no order as to costs.

MANOJ KUMAR TIWARI, J.

PANKAJ PUROHIT, J.

Dated: 11th June, 2024
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