



2026:DHC:1681-DB



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

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*Judgment reserved on: 28.01.2026*  
*Judgment pronounced on: 25.02.2026*

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**W.P.(C) 5665/2022**

**SURYA PAL SINGH & ORS.**

.....Petitioners

Through: Mr. Alok Shanker Pandey with  
Mr. Avi Pandey, Ms. Jagriti  
Pandey, Advocates with  
Petitioners – S.P. Singh and  
Dinesh Chandra.

versus

**UNION OF INDIA & ORS.**

.....Respondents

Through: Mr. Mukul Singh, CGSC with  
Ms. Ira Singh, Mr. Aryan  
Dhaka & Ms. Nandini  
Aggarwal, Advocates for R-1,  
2, 3, 4, 13.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

## **J U D G M E N T**

**AMIT MAHAJAN, J.**

1. The present writ petition has been filed under Article 226 of the Constitution of India, assailing the order dated 14.07.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (*hereinafter* 'CAT'), whereby the O.A. No. 2501 of 2019, preferred by the Petitioners/Officers seeking benefit of financial upgradation under the Modified Assured Career Progression ('MACP') Scheme with effect from 01.01.2006, came to be dismissed.



2. The quintessential facets governing the present dispute are that the Petitioners are former officers of the Intelligence Bureau ('IB'), Ministry of Home Affairs, Government of India. They retired as Gorup 'A' Officers between January 2006 and September 2008.
3. The Petitioners were governed, during their service tenure, by the Assured Career Progression ('ACP') Scheme introduced in the year 1999, which provided for two financial upgradations on completion of 12 and 24 years of regular service in the absence of promotion.
4. It is the case of the Petitioners that pursuant to the recommendations of the 6<sup>th</sup> Central Pay Commission *vide* report dated 24.03.2008, the Ministry of Finance Department of Expenditure, Government of India, issued a Resolution dated 29.08.2008, revising the pay structure of Central Government employees w.e.f. 01.01.2006, and contemplated the introduction of the MACP Scheme in supersession of the ACP Scheme w.e.f. 01.01.2006.
5. Thereafter, the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training ('DoP&T') issued Office Memorandum dated 19.05.2009 formally introducing and operationalising the MACP Scheme with effect from 01.09.2008.
6. However, the Petitioners, though were in service on 01.01.2006 but having retired prior to 01.09.2008, were not granted the benefits of 3<sup>rd</sup> financial upgradation under the MACP Scheme. Aggrieved thereby, the Petitioners submitted various representations claiming that the MACP Scheme ought to be applied retrospectively from 01.01.2006, when they were in service.



7. Upon rejection of their representations, the Petitioners approached the learned CAT and *vide* the impugned order dated 14.07.2021, their Original Application was dismissed holding that it has already been settled by the Hon'ble Apex Court that the MACP Scheme was applicable only from 01.09.2008 and since the Petitioners have retired prior thereto, they would not be entitled to any benefit under the said Scheme.

8. The impugned order was assailed by the Petitioners, by way of an SLP No. 20883/2021 titled *Surya Pal Singh and Ors. v. Union of India and Ors.*, before the Hon'ble Apex Court, which was dismissed *vide* order dated 03.01.2022 as under: -

“ **ORDER**

1. *We are not inclined to entertain the Special Leave Petition under Article 136 of the Constitution.*
2. *The Special Leave Petition is accordingly dismissed.*
3. *Application for substitution stands disposed of.”*

9. Accordingly, the Writ Petition Dairy No.27888/2021 filed by the Petitioners under Article 32 before the Hon'ble Apex Court was withdrawn, as recorded in order dated 14.02.2022.

10. The Petitioners, thereafter, have approached this Court by way of the present petition.

11. Learned counsel appearing for the Petitioners submitted that the learned CAT had failed to appreciate that the Resolution dated 29.08.2008 of the Ministry of Finance (Department of Expenditure) accepted the recommendations of the 6<sup>th</sup> Central Pay Commission and provided that the revised pay structure, including financial upgradations under the MACP Scheme would be effective from



01.01.2006. In support thereof, reliance is placed upon *Union of India v. Balbir Singh Turn and Anr. (2018) 11 SCC 99*.

12. It is further submitted that the MACP Scheme forms an integral part of the revised pay structure and, therefore, ought to be given effect from 01.01.2006. According to the Petitioners, the DoP&T Office Memorandum dated 19.05.2009, which operationalised the MACP Scheme from 01.09.2008, could not override or curtail the effect of the Cabinet-approved Resolution dated 29.08.2008.

13. It is further submitted that denial of MACP benefits to the Petitioners, who retired between 01.01.2006 and 31.08.2008, is arbitrary as they had completed 30 years of service much before 01.09.2008 and are entitled to 3<sup>rd</sup> financial upgradation as per the MACP Scheme.

14. Hence, it is prayed that the impugned order and the DoP&T OM No. 35034/3/2008/Estt (D) dated 19.05.2009 operationalising the MACP Scheme w.e.f. 01.09.2008 be set aside and the Respondent Authorities be directed to grant the Petitioners the 3<sup>rd</sup> Financial Upgradation under MACP scheme w.e.f. 01.01.2006.

15. *Per contra*, learned counsel for the Respondents submitted that the issue regarding the effective date of the MACP Scheme and ante dating the MACP Scheme is no longer *res integra* and stands conclusively settled by the Hon'ble Supreme Court and it has been held that the MACP Scheme is an incentive scheme and a condition of service, distinct from pay revision, and has been consciously made operative prospectively with effect from 01.09.2008. To buttress the same, reliance is placed on the judgments of the Hon'ble Supreme



Court in *Union of India v. R.K. Sharma & Ors.* , (2021) 5 SCC 579 and *Union of India v. Virender Singh*, 2022 SCC OnLine SC 1058 wherein it has been categorically held that the benefit of financial upgradation under the MACP Scheme cannot be claimed from 01.01.2006.

16. It is further submitted that DoP&T OM dated 13.07.2021, as per the judgment of *R.K. Sharma* (supra), has further clarified that benefits under MACP Scheme cannot be claimed w.e.f. 01.01.2006.

17. It is further submitted that since the Petitioners have retired prior to 01.09.2008 (except Petitioner No. 35/Lt. K.C. Mittal, who has already availed the benefit of 3<sup>rd</sup> financial upgradation w.e.f. 01.09.2008) and now cannot seek any benefit of any financial upgradation under the MACP by claiming its implementation from 01.01.2006.

18. Accordingly, it is prayed that there is no ground to interfere with the impugned order passed by the he learned CAT and the writ petition is liable to be dismissed.

19. Submissions heard and the material placed on record along with the judgments relied upon have been perused.

### **Analysis**

20. Before advertng to the facts of the present case, it is apposite to mention that the SLP preferred by the Petitioners herein, assailing the same impugned order, was dismissed by the Hon'ble Apex Court, without recording any express liberty to approach this Court.



21. Be that as it may, the impugned order clearly indicates that all the grounds raised before this Court as well as the judgments relied upon by the Petitioners were duly considered.

22. At the outset, it is necessary to examine the nature of the MACP Scheme. The MACP Scheme was introduced as a replacement of the ACP Scheme with the object of mitigating stagnation by granting financial upgradations at intervals of 10, 20 and 30 years of regular service in the absence of promotion. The Hon'ble Supreme Court has consistently held that the MACP Scheme is an incentive scheme and a condition of service, and not a component of the pay structure itself.

23. The Resolution dated 29.08.2008 revised the pay bands and grade pay with notional effect from 01.01.2006. However, the Resolution merely contemplated the introduction of the MACP Scheme and the MACP Scheme was formally operationalised only by the DoP&T OM dated 19.05.2009, which explicitly stipulated that the Scheme would be effective from 01.09.2008. The Resolution dated 29.08.2008, insofar as it is relevant to the present case, reads as under:

*"(VII) Three upgradations shall be granted under the Assured Career Progression (ACP) Scheme at 10, 20 and 30 years as per the Modified ACP Scheme recommended by the Commission. The ACP Scheme shall also be applicable to Group 'A' employees.*

*XXX XXX XXX*

*2. The Commission's recommendations and the Government decision thereon with regard to the **revised scales of pay and dearness allowance** of civilian employees of the Central Government and personnel of All India Services, as detailed in Part 'A' of Annexure-1, shall be made effective from the **1st day of January, 2006.***



3. The revised allowances other than dearness allowance shall be made effective from the **1st day of September 2008**.

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(IV) The scheme shall be called the Modified ACP Scheme and shall ensure suitable career progression uniformly to all the employees of the Central Government. "

(Emphasis supplied)

24. A plain reading of the aforesaid provisions shows that the effective date of 01.01.2006 has been expressly confined to *revised pay scales and dearness allowance* only. The Resolution itself draws a clear distinction between pay and dearness allowance on the one hand, and other allowances and benefits on the other.

25. Hence, the Petitioners could seek financial upgradation under the MACP Scheme with effect from 01.01.2006 *only if it is included within the revised pay scales or dearness allowance, and is forming part of the pay structure*. If not, then consequently, such upgradation would be governed by the general clause prescribing 01.09.2008 as the effective date.

26. The distinction between the effective date of financial upgradation and the operational date of the MACP Scheme has been repeatedly affirmed by the Hon'ble Supreme Court.

27. At this juncture, it is apposite to advert to the decision of the Hon'ble Supreme Court in **Balbir Singh Turn** (supra), wherein the view was taken by the learned Armed Forces Tribunal that financial upgradation under the MACP Scheme *formed part of the pay structure* and, therefore, ought to be given effect from 01.01.2006 in terms of the Resolution dated 29.08.2008 accepting the



recommendations of the 6<sup>th</sup> Central Pay Commission. The Hon'ble Apex Court upheld the above reasoning, proceeding on the premise that ACP/MACP benefits *directly impacted pay and pension*, rejected the contention of the Union of India that the ACP Scheme continued to operate till 31.08.2008 and that the MACP Scheme could only operate prospectively.

28. Relying upon ***Balbir Singh Turn*** (supra), the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, *vide* order dated 03.04.2018 passed in ***Writ Petition No. 22214 of 2011 titled M. Hara Bhupal Vs Union of India & Ors***, granted benefit of 3rd financial upgradation, to the Petitioner therein, under the MACP Scheme w.e.f. 01.01.2006. However, the question whether MACP forms part of the revised pay structure so as to attract the effective date of 01.01.2006 was not conclusively adjudicated.

29. Pertinently, the said reasoning in ***Balbir Singh Turn*** (supra) has subsequently been examined in depth by a larger Bench of the Hon'ble Supreme Court and has been held to be inconsistent with the true nature of the MACP Scheme as an incentive-based condition of service, distinct from revision of pay scales.

30. In ***Union of India and ors. vs. M. V. Mohanan Nair (2020) 5 SCC 421*** and ***R.K. Sharma*** (supra), the Hon'ble Supreme Court considered the previous ruling of ***Balbir Singh Turn*** (supra) and held that both the MACP and ACP are in the nature of incentives and not part of the pay structure and it was settled that the benefit of revised allowances, other than scales of pay and DA, which included financial



upgradation under the MACP Scheme, would be effective from 01.09.2008. The relevant extract of **R.K. Sharma** (supra) is reproduced as under: -

*“ 9. For a better understanding of the dispute in these cases, it is necessary to examine the judgments of this Court in **Balbir Singh Turn [Union of India v. Balbir Singh Turn, (2018) 11 SCC 99 : (2018) 1 SCC (L&S) 866]** and **M.V. Mohanan Nair [Union of India v. M.V. Mohanan Nair, (2020) 5 SCC 421 : (2020) 2 SCC (L&S) 1]** . The point that was considered by this Court in Balbir Singh Turn [Union of India v. Balbir Singh Turn, (2018) 11 SCC 99 : (2018) 1 SCC (L&S) 866] **relates to the applicability of the benefit of MACPS from 1-1-2006.** The respondents therein approached the Armed Forces Tribunal which held [Balbir Singh v. Union of India, 2014 SCC OnLine AFT 1128] **that the benefit of ACP granted to an employee is part of the pay structure which affects the pay and also his pension.** The Armed Forces Tribunal held that an ACP is not an allowance but a part of pay and therefore, in terms of the government resolution, **the employees were entitled for MACP with effect from 1-1-2006.** This Court in **Balbir Singh Turn [Union of India v. Balbir Singh Turn, (2018) 11 SCC 99 : (2018) 1 SCC (L&S) 866]** upheld the said finding recorded by the Armed Forces Tribunal. Instructions issued on 30-5-2011 were found to be contrary to the Resolution dated 30-8-2008 as, according to the resolution 1-1-2006 was the effective date for implementation of MACPS in matters relating to pay and dearness allowance.*

*10. In **M.V. Mohanan Nair [Union of India v. M.V. Mohanan Nair, (2020) 5 SCC 421 : (2020) 2 SCC (L&S) 1]** 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 [Union of India v. M.V. Mohanan Nair, (2020) 5 SCC 421 : (2020) 2 SCC (L&S) 1]*, 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 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 [Union of India v. M.V. Mohanan Nair, (2020) 5 SCC 421 : (2020) 2 SCC (L&S) 1]* 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.”

(Emphasis supplied)



31. Hence, in view of the above, the OM no. 35034/ 3/ 2015-ESTT (D) dated 13.07.2021 was issued by DOP&T, Ministry of Personnel, Public Grievances and Pensions, Government of India, which clarified as under: -

“

**OFFICE MEMORANDUM**

**Subject: - Cases pending or decided by Hon'ble High Courts/Central Administrative Tribunals regarding preponement of effective date of Modified Assured Career Progression Scheme-Order of the Hon'ble Supreme Court of India dated 28.4.2021 in CA No. 1579/21 (SLP (C) No. 15572/2019) of Union of India v/s R.K. Sharma & others - reg.**

The undersigned is directed to say that vide O.M. of even number dated 30.9.2020, Ministries/ Departments were advised to defend all cases or challenge the Orders of Court/Tribunal, as the case may be, which are contrary to Modified Assured Career Progression Scheme (MACPS) guidelines, **since the matter relating to preponing the date of effect of the MACPS from 1.9.2008 (as provided in the scheme) to 1.1.2006, was sub-judice** in a number of cases pending in the Apex Court, which have been tagged with SLP No. 10811-13/2018 of Uol v/s Ranjit Samuel, and that all similar matters were being heard together.

2. Though decision in the above mentioned cases is still awaited, the Hon 'ble Supreme Court of India, **in a related matter, has held that benefits under the MACPS cannot be claimed w.e.f. 1.1.2006.** In its Order dated 28.4.2021 in Civil Appeal No. 1579/2021 [arising out of SLP (C) No. 15572/20 19] of Union of India v/s R.K. Sharma & Others, the Hon'ble Apex Court has held as under:-

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3. Accordingly, in terms of the existing MACP guidelines, and in light of abovementioned order dated 28.4.2021, **all Ministries/Departments are, therefore, advised to dispose of all pending grievances seeking grant of benefit w.e.f. 1.1.2006 under the MACP Scheme,** and also to defend the various pending Court Cases or to take immediate suitable action for appealing against such judgments which are contrary



*to the existing policy, as upheld by the Hon 'ble Apex Court in the instant case.”*

(Emphasis supplied)

32. The issue of the date of implementation was further conclusively settled in **Virender Singh** (supra) wherein the Hon'ble Supreme Court, after discussing the above precedents, categorically held that MACP Scheme is applicable with effect from 01.09.2008. The relevant extract is reproduced as under: -

**“ 11. As rightly held in R.K. Sharma (supra), the aforesaid reasoning given in the case of Balbir Singh Turn (supra), in our opinion, has not been accepted by the three Judge Bench decision in the case of M.V. Mohanan Nair (supra), which in clear terms holds grant of financial upgradation under the MACP Scheme is not a matter of pay structure, but an incentive scheme brought into force to relieve stagnation which operates on its own terms. We may add that the pay scales are fixed and revised by the rules which are enacted in exercise of powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution of India. Therefore, vide Notification dated 29<sup>th</sup> August 2008, the Central Civil Services (Revised Pay) Rules, 2008 were enacted vide G.S.R. No. 622(E). Rule 1(2) states that the Rules, as enacted, shall be deemed to have come into force on 1<sup>st</sup> January 2006. The aforesaid Rules neither postulate nor have any provision for grant of financial upgradation under the MACP Scheme. It is to be further noted, and it is an accepted position of both parties, that the MACP Scheme, as implemented, postulates grant of financial upgradation after 10, 20 and 30 years of regular service and not after 8, 16 or 24 years of regular service, as was originally envisaged in terms of Government Resolution dated 30<sup>th</sup> August 2008, or for that matter, 10 or 20 years of service, as was recommended by the Sixth Central Pay Commission. In our opinion, the Resolution of the Central Government dated 30<sup>th</sup> August 2008 cannot be read as conferring any right on the government**



employees. The resolution was not notified and enforced to confer a legal right.<sup>7</sup> The Office Memorandum dated 19.05.2009 promulgates and operationalises the MACP Scheme with effect from 01.09.2008. The Office Memorandum states that financial upgradations as per the provisions of the earlier ACP Scheme would be granted till 30.08.2008. Further, past cases would not be re-opened and the difference in pay scales on account of grant of financial upgradation under the old ACP Scheme and the MACP Scheme shall not be construed as an anomaly.

12. Learned counsel for the government employees, inspite of being correct that M.V. Mohanan Nair (supra) does not refer to Balbir Singh Turn (supra) and does not overrule it specifically, misses the point that the entire ratio and reasoning given in M.V. Mohanan Nair (supra), as rightly observed in R.K. Sharma (supra), cannot be reconciled with the ratio in Balbir Singh Turn (supra). M.V. Mohanan Nair (supra) has examined the MACP Scheme in depth and detail to settle the controversy, inter alia holding that supersession of the ACP Scheme by the MACP Scheme is a matter of government policy, and that “after accepting the recommendation of the Sixth Central Pay Commission, the ACP Scheme was withdrawn and the same was superseded by the MACP Scheme with effect from 1.9.2008.”<sup>8</sup> The ACP Scheme and MACP Schemes were held to be in the nature of incentive schemes to relieve stagnation and not as a part of pay structure, which had revised the pay and the dearness allowance with effect from 1.1.2006. In these circumstances, we do not think a case for reference to a larger Bench of three Judges to reconsider the ratio in the decision of R.K. Sharma (supra) is made out. Therefore, we reject the contention of the learned counsel for the respondents/government employees for reference of the matter.

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14. In view of the aforesaid discussion, the appeals filed by the Union of India are partly allowed and impugned judgments, to the extent they hold that the



*MACP Scheme applies with effect from 1.1.2006 and that under the MACP Scheme the employees are entitled to financial upgradation equivalent to the next promotional post, are set aside. **MACP Scheme is applicable with effect from 1.9.2008 and as per the MACP Scheme,** the entitlement is to financial upgradation equivalent to the immediate next grade pay in the hierarchy of the pay bands as stated in Section 1, Part A of the First Schedule to the Central Civil Services (Revised Pay) Rules, 2008. ....”*

(Emphasis supplied)

33. A three-judge Bench of the Hon’ble Supreme Court, *vide* Judgment dated 08.03.2022 passed in Civil Appeal No. 1880 of 2022, titled ***The Vice Chairman, Delhi Development Authority v. Narender Kumar & Ors.***, has also expressly concurred with the principles laid down in ***R.K. Sharma*** (supra) and ***M.V. Mohanan Nair*** (supra), while declining to place reliance on ***Balbir Singh Turn*** (supra). The Court held that the financial upgradations would be as per the ACP Scheme up to 31.08.2008, and financial upgradation is governed exclusively by the MACP Scheme with effect from 01.09.2008. The relevant extract is reproduced herein below: -

**“22. The MACP scheme, which replaced the ACP scheme, with effect from 01-09-2008** (although the scheme was introduced on 19.05.2009) was preceded by the Sixth Central Pay Commission report dated 24-3-2008. That report dealt with the pay-structure, allowances, conditions of services and retiral benefits of Central Government employees, etc. By a Resolution dated 29-8-2008, recommendations of the Pay Commission concerning civilian employees were accepted by the Central Government regarding revised pay-scales and dearness allowances with effect from 01-01-2006. **As regards revised allowances, (excluding dearness allowance), the effective date designated by the memorandum is 1-9-2008.**

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27. It is therefore, quite clear that both Mohanan Nair(supra) and R.K. Sharma(supra), examined the MACP scheme; the latter, especially, ruled that the scheme was operable from 01-09-2008, and that the respondents “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”. Having regard to this clearly enunciated principle, which, in this court’s opinion, stems from a correct reading of the scheme, the reasoning of the High Court, that the MACP scheme is operative not from 01-09-2008, but from 01-01-2006, is untenable. The mere circumstance that the resolution of the Government which led to adoption of the MACP also contained the effective date for implementation of the pay-benefits of the Pay Commission recommendations, did not obliterate the fact that the date from which the scheme was to be made effective, was another one.

28. The submissions of the DDA, that the executive agency’s considerations, while extending a benefit or new regime such as the promotion or career advancement program, is to be effective, involves decision making that is complex and nuanced, is justified. The date of operation of new pay scales cannot be per se the same when the operation of another scheme (which may also involve pay benefits) need not be the same. The shifting of dates (once settled by the executive after due deliberations) may seemingly have no consequences, but inevitably would have radical financial implications. Given these factors, it has been held, in previous decisions that courts should in the absence of any facially compelling reason disclosing arbitrariness desist from stepping into the arena of decision making, and avoid directing their reformulation or even requiring such schemes to be administered from any anterior period.

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31. Para 9 recognises the fact that if there is any ambiguity in the interpretation of the MACP scheme it would be resolved by the Department of Personnel and Training. It also clarifies in the last sentence that financial upgradation would be granted till



**31.08.2008 (given that the MACP scheme itself became operative on 01.09.2008)**, although the office memorandum was issued on 19.05.2009. In the opinion of this Court the undue influence placed upon the last sentence cannot be met much of by the employees **given that the ACP scheme itself ended on 31.08.2008**. This provision (i.e. Para 9) was made to cater to the situations where the grant of ACP benefits was under process, this would mean both types of benefits i.e. the first and the second up-gradation. Doubtlessly, the first up-gradation under the ACP scheme was to be granted after 12 years. **If Para 9 were to be considered in the context of the first upgradation it is a clarification to the effect that the individual concerned who has crossed 12 years' service (and therefore became eligible and whose case is under active consideration) would get the ACP benefits**. However, this provision cannot be understood as an independent transitional provision, enabling all employees awaiting the up-gradation to insist that the benefit of the ACP scheme should indefinitely continue despite its ceasing to exist after 31.08.2008.”

(Emphasis supplied)

34. The aforesaid pronouncements leave no doubt that no enforceable right accrues to an employee to claim MACP benefits prior to 01.09.2008. The claim seeking financial upgradation under the MACP Scheme with effect from 01.01.2006 cannot be sustained as they do not form part of the pay structure or revised pay scales, and such benefits can be implemented only from 01.09.2008.

35. Reliance placed on the judgment of *Hara Bhupal* (supra) is misconceived and cannot be accepted as the same solely relied upon the view taken in *Balbir Singh Turn* (supra), which has not been endorsed by the Hon'ble Apex Court in the subsequent judgments in *RK Sharma* (supra), *Virender Singh* (supra) and *Narender Kumar* (supra).



36. Even otherwise, it is an admitted position that the Petitioners had all superannuated prior to 01.09.2008 (except Petitioner No. 35/Late K.C. Mittal who has been granted financial upgradation w.e.f. 01.09.2008). Consequently, they were not in service on the date on which the benefit of financial upgradation under the MACP Scheme was implemented and their financial upgradation would have been governed by the then existing ACP Scheme only.

37. It is also well settled that fiscal and service policy decisions involving fixation of cut-off dates fall within the domain of the executive and do not violate Articles 14 or 16 unless shown to be manifestly arbitrary, which is not the case here.

38. Hence, this Court finds no infirmity in the conclusion reached by the learned CAT that the Petitioners cannot claim financial upgradation under the MACP Scheme from 01.01.2006.

39. Accordingly, the writ petition is dismissed.

40. The pending application(s), if any, also stand disposed.

**AMIT MAHAJAN, J.**

**ANIL KSHETARPAL, J.**

**FEBRUARY 25, 2026**

*jnv*