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

*Date of decision: 09.10.2025*

+ **W.P.(C) 2623/2014 & CM APPL. 5436/2014**

UNION OF INDIA & ORS.

.....Petitioners

Through: Ms.Nidhi Raman, CGSC with  
Mr.Akash Mishra, Mr.Arnab  
Mittal and Mr.Mayank  
Sansanwal, Advs.

versus

SATYVIR SINGH & ORS.

.....Respondents

Through: Mr.M.K. Bhardwaj and  
Ms.Sanya Narula, Advs.

+ **W.P.(C) 331/2016**

MANOJ KUMAR SINGH & ORS

.....Petitioners

Through: Mr.M.K. Bhardwaj and  
Ms.Sanya Narula, Advs.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms.Nidhi Raman, CGSC with  
Mr.Akash Mishra, Mr.Arnab  
Mittal and Mr.Mayank  
Sansanwal, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

1. These petitions have been filed challenging the Order dated 13.11.2013 passed by the learned Central Administrative Tribunal,



Principal Bench, New Delhi (hereinafter referred to as, ‘Tribunal’) in O.A. No.4101/2012, titled *Satyvir Singh & Ors. v. Union of India & Ors.* (in W.P.(C) 2623/2014); and the Order dated 24.11.2015 passed by the learned Tribunal in O.A. No.778/2014, titled *Manoj Kumar Singh & Ors. v. Union of India & Ors.* (in W.P.(C) 331/2016).

2. As both these petitions raise a common question of law, they have been taken up for disposal together.

**BRIEF FACTS IN W.P.(C) 2623/2014**

3. As far as W.P.(C) 2623/2014 is concerned, the respondents herein were initially appointed to the post of Vehicle Mechanic (Armed Fighting Vehicle) [hereinafter referred to as, ‘VM(AFV)’] against direct recruitment with effect from 17.09.1997, in the pay scale of Rs.1320-2040.

4. *Vide* Government of India, Ministry of Defence Letter No.11(1)/2002/D(Civ.I) dated 20.05.2003, regarding restructuring of Cadre of Artisan Staff in Defence Establishment in modification of recommendation of Fifth Central Pay Commission (in short, ‘CPC’), all the trades classified as Skilled in the Industrial as well as in the non-Industrial Establishments were modified in the following inter-grade ratio:

“1 Skilled	(Rs.3050-4590) : 45%
2 Highly Skilled	(Rs.4000-6000) : 55%
3 Master Craftsman	(Rs.4500-7000) : 25% of the

*Highly Skilled Grade posts will be placed in the grade of the Master Craftsman. They will, however, not be a part of the hierarchy.”*



5. The respondents were, accordingly, placed in the grade of Highly Skilled and were given the pay scale of Rs. 4000-6000.

6. On implementation of the Sixth CPC, there was a further restructuring of the Artisan Staff Cadre, wherein the post of Highly Skilled was divided into two grades, that is, Highly Skilled Grade-I (in short, 'HS Grade-I') with a pay scale of Rs.4500-7000 with Grade Pay of Rs.2800/-, and Highly Skilled Grade-II (in short, 'HS Grade-II') with a pay scale of Rs.4000-6000 (pre-revised) with Grade Pay of Rs.2400/-.

7. To implement the same, the petitioners issued a Notification dated 28.08.2009, which, insofar as is relevant to the present petition, reads as under:

*“2. The additional entries as Sl. No.4 and 5 under Sr. No.XVIII in Section II, Part B of the First Schedule which relates to Workshop Staff shall be added as under:-*

*(In Rupees)*

Sl. No	Post	Present Scale	Revised Pay Scale	Corresponding Pay Band & Grade Pay		Para No. of the Report
				Pay Band	Grade Pay	
1	2	3	4	5	6	7

**VIII WORKSHOP STAFF**

4.	Highly Skilled Workers	4000-6000	4000-6000 (50%) 4500-7000 (50%)	PB-1 PB-1	2400 2800	3.8.27 (Modified by Government)
5.	Master craftsman	1500-7000	5000-8000	PB-2	4200	3.8.27 (Modified by Government)

*\*\* The cadre of Highly Skilled Workers stands equally spilt in a ratio of 50:50 and re-*



*designated as Highly Skilled Worker Grade-II (Grade Pay of Rs.2400 in Pay Band PB-1) and Highly Skilled Worker Grade I (Grade pay of Rs.2800 in Pay Band PB-I)”*

8. The petitioners issued a further Circular dated 14.06.2010, regarding the restructuring of the Cadre of Artisan Staff in Defence Establishments in modification of the recommendations of the Sixth CPC, wherein it was mentioned that Highly Skilled workers would be bifurcated in HS Grade-I and HS Grade-II in the ratio of 50:50 and that the HS Grade-I shall be en-bloc senior to HS Grade-II.

9. To implement the same, the persons working as Highly Skilled [earlier known as VM (AFV)] were divided into HS Grade-I and HS Grade-II, in the ratio of 50:50, based on their seniority.

10. Further, in terms of the 2014 Recruitment Rules, the feeder cadre for the post of HS Grade-I was prescribed as HS Grade-II having five years of regular service in the grade.

11. The respondents filed the above O.A. before the learned Tribunal, *inter alia*, claiming that their placement as HS Grade-I cannot be treated as an upgradation and, that they were, therefore, entitled to the grant of the benefits under the MACP Schemes.

12. The learned Tribunal agreed with the said submission, observing as under:

*“10. In the present case the placement of workers in Highly Skilled Grade-II and Grade-I does not even stipulate any residency period in the lower scale. Thus the placement in the higher scale is dependent only on the vacancies within the given percentage and on no other condition/qualification/ residency period etc. The learned counsel for*



*respondents has referred to the clause 3(b) in the letter dated 14.09.2010 stipulating that these placements will be in relaxation of the conditions, if any, i.e. trade test etc. as one time measure to prove that there are conditions to be fulfilled, for placement in the next higher scale. He, however, did not specify what those conditions were. This placement, therefore, cannot be treated as a promotion, notwithstanding the fact that it has been termed so in the Ministry of Defence letter dated 14.09.2010. The MACP Scheme, on the other hand, prescribes grant of scale to which the Government servant would have been promoted in the normal course as the 1st financial upgradation. Since the post of Master Craftsman is a part of hierarchy, it is logical that the 1st financial upgradation of the Highly Skilled worker will be to the grade of Master Craftsman, i.e., the grade pay of Rs.4200/-.”*

### **BRIEF FACTS IN W.P.(C) 331/2016**

13. As far as W.P.(C) 331/2016 is concerned, the petitioners herein were appointed to the posts of Telecommunication Mechanic and Instrument Mechanic in the pay scale of Rs.1320-2040.

14. Pursuant to implementation of the Fifth CPC, they were given a pay scale of Rs.4000-6000. Again, on implementation of the Sixth CPC and in terms of the Notification dated 28.08.2009 read with Circular dated 14.06.2010, the Cadres of Telecommunication Mechanic (Highly Skilled) and Instrument Mechanic (Highly Skilled) were bifurcated into two grades each, being Telecommunication Mechanic (HS Grade-I) and Telecommunication Mechanic (HS Grade-II); and Instrument Mechanic (HS Grade-I) and Instrument



Mechanic (HS Grade-II). 50% of the cadre was to be placed in HS Grade-I, while the remaining 50% was to be placed in HS Grade-II on the basis of seniority. The petitioners herein were placed in HS Grade-I based on their seniority. Treating the said placement to be an upgradation, they were denied MACP Scheme benefits, aggrieved by which they approached the learned Tribunal by the way of the abovementioned O.A..

15. The learned Tribunal dismissed the said O.A., observing therein that the placement of the petitioners in HS Grade-I amounted to an upgradation, thereby disentitling them to the benefits under MACP Schemes. The petitioners have challenged the said order by the way of the present writ petition.

16. As these are cross petitions, we shall refer to the applicants in the O.A.s as petitioners, and to the Ministry of Defence as the respondent.

**SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS:**

17. Mr. M.K. Bhardwaj, the learned counsel appearing for the petitioners, submits that the petitioners were all originally appointed as HS Grade-I. On bifurcation of the said post, they were placed in HS Grade-I. He submits that such placement cannot be treated as an upgradation for purposes of denying the MACP Scheme benefits. In support of his submission, he also places reliance on the Judgment of this Court in *Union of India & Ors. v. Shri F.C. Jain & Anr.* 2002:DHC:7462-DB



**SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS:**

18. On the other hand, Ms. Nidhi Raman, the learned Central Government Standing Counsel appearing for the respondents, submits that prior to 2006, there was no bifurcation in the post of Highly Skilled into HS Grade-I or HS Grade-II. It was only after the implementation of the recommendations of the Sixth CPC, that the post held by the petitioners was bifurcated into HS Grade-I and HS Grade-II.

19. She submits that the placement in HS Grade-I and HS Grade-II was in the ratio of 50:50, and the petitioners, being senior, were placed in HS Grade-I, which was an upgradation, as they were placed in the pay scale of Rs.4500-7000 with Grade Pay of Rs.2800/-, as against HS Grade-II, which had a pay scale of Rs.4000-6000 (pre-revised) with Grade Pay of Rs.2400/-. She submits that, in fact, the order passed fixing the pay of the petitioners pursuant to the implementation of the Sixth CPC also shows that the petitioners were first placed in the pay scale of Rs.4000-6000 (pre-revised) with Grade Pay of Rs.2400/- as HS Grade-II, and were thereafter upgraded to HS Grade-I in the pay scale of Rs.4500-7000 with Grade Pay of Rs.2800/-.

20. Placing reliance on the Judgments of the Supreme Court in *Bharat Sanchar Nigam Limited v. R. Santhakumari Velusamy & Ors.*, (2011) 9 SCC 510 and *Union of India & Ors. v. Ex. HC/GD Virender Singh*, 2022 SCC OnLine SC 1058, she submits that the petitioners were not entitled to the grant of MACP Scheme benefits, as their placement in the HS Grade-I was not a case of mere placement



on merger or de-merger of posts, but was effected on the basis of their seniority.

**ANALYSIS AND FINDINGS:**

21. We have considered the submissions made by the learned counsels for the parties.

22. As contended by the learned counsel for the respondents, the petitioners had been appointed to the post of VM (AFV)/Telecommunication Mechanic/Instrument Mechanic, which in terms of the then prevailing Recruitment Rules, were not bifurcated into the sub-cadres of HS Grade-I and HS Grade-II. It was only upon implementation of the Sixth CPC, by way of Notification dated 28.08.2009 read with Circular dated 14.06.2010, that the above posts came to be bifurcated into HS Grade-I and HS Grade-II, with 50% of the cadre strength, on basis of the seniority, being placed in HS Grade-I, and the remaining being placed in HS Grade-II. The placement of the petitioners in HS Grade-I was, therefore, on the basis of their seniority and was not a simpliciter placement upon the de-merger of the post.

23. The Office Memorandum No.35034/1/97-Estt.(D) dated 18.07.2001, issued by the Department of Personnel and Training, while rendering clarification regarding the Assured Career Progression (ACP) Scheme, which was subsequently superseded by the MACP Scheme, stated as under:

<b>S.No.</b>	<b>Point of doubt</b>	<b>Clarification</b>
<b>35.</b>	<i>Whether placement/appointment in higher scales of pay based on the recommendations of the Pay</i>	<i>Where all the posts are placed in a higher scale of pay, with or without</i>



<p><i>Commissions or Committees set up to rationalise the cadres is to be reckoned as promotion/financial upgradation and offset against the two financial upgradations applicable under the ACP Scheme?</i></p>	<p><i>a change in the designation; without requirement of any new qualification for holding the post in the higher grade, not specified in the Recruitment Rules for the existing post, and without involving any change in responsibilities and duties, then placement of all the incumbents against such upgraded posts is not be treated as promotion/upgradation.</i></p> <p><b><u>Where, however, rationalisation/restructuring involves creation of a number of new hierarchical grades in the rationalised set up and some of the incumbents in the pre-rationalised set up are placed in the hierarchy of the restructured set up in a grade higher than the normal corresponding level taking into consideration their length of service in existing pre-structured/pre-rationalised grade, then this will be taken as promotion/upgradation.</u></b></p> <p><i>If the rationalised/restructured grades require possession of a specific nature of qualification and experience, not specified for the existing posts in pre-rationalised set up, and existing incumbents in pre-rationalised scales/pre-structured grades, who are in possession of the required qualification/ experience are placed directly in the rationalised upgraded post, such placement will also not be viewed as promotion/upgradation. However, if existing incumbents in the pre-rationalised grades who do not possess the said qualification/ experience are considered for placement in the corresponding</i></p>
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		<p><i>rationalised grade only after completion of specified length of service in the existing grade, then such a placement will be taken as promotion/upgradation.</i></p> <p><i>Where placement in a higher grade involves assumption of higher responsibilities and duties, then such upgradation will be viewed as promotion/upgradation.</i></p> <p><b><u>Where only a part of the posts are placed in a higher scale and rest are retained in the existing grade, thereby involving redistribution of posts, then it involves creation of another grade in the hierarchy requiring framing of separate recruitment rules for the upgraded posts. Placement of existing incumbents to the extent of upgradations involved, in the upgraded post will also be treated as promotion/upgradation and offset against entitlements under the ACPS.</u></b></p> <p><i>For any doubt in this regard, matter should be referred to the Department of Personnel and Training (Establishment 'D' Section) giving all relevant details.</i></p> <p><i>(Emphasis supplied)</i></p>
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24. What emerges from the above is that when restructuring creates new hierarchical grades, and placement in the higher grade is determined on the basis of certain factors, like length of service rather



than being automatic for all incumbents, such placement constitutes an upgradation. The O.M. further states that where restructuring results in only a part of the posts being placed in a higher scale, while the rest are retained in the existing grade, thereby involving redistribution of posts, it necessarily involves the creation of another grade in the hierarchy. In such cases, separate recruitment rules are required to be framed for the upgraded posts, and placement of existing incumbents in the upgraded posts, to the extent of upgradations involved, will be treated as promotion/upgradation. The rationale is that when not all incumbents are elevated uniformly, but instead, only a select group is upgraded, based on defined criteria, such upgradation ceases to be a mere administrative re-designation and acquires the character of an upgradation.

25. The same is the situation in the present case. The bifurcation of the post of Highly Skilled into HS Grade-I and HS Grade-II was not a mere re-labelling exercise where all incumbents were automatically placed in a higher grade. Rather, it involved creation of two distinct hierarchical grades with different Grade Pays in a 50:50 ratio, with placement in the higher grade (HS Grade-I with Grade Pay of Rs.2800) being contingent upon seniority. Those placed in HS Grade-I received a higher Grade Pay (Rs.2800) as against those placed in HS Grade-II (Grade Pay of Rs.2400). Additionally, separate Recruitment Rules were framed, making HS Grade-II a feeder cadre for HS Grade-I, with a requirement of five years of regular service for progression. This clearly demonstrates that the bifurcation created a hierarchical



structure, and placement in the higher grade based on seniority amounted to an upgradation.

26. In this regard, we may make a reference to the Judgment of the Supreme Court in **R. Santhakumari Velusamy** (supra), wherein the Supreme Court has held as under:

*“29. On a careful analysis of the principles relating to promotion and upgradation in the light of the aforesaid decisions, the following principles emerge:*

*(i) Promotion is an advancement in rank or grade or both and is a step towards advancement to higher position, grade or honour and dignity. Though in the traditional sense promotion refers to advancement to a higher post, in its wider sense, promotion may include an advancement to a higher pay scale without moving to a different post. But the mere fact that both - that is, advancement to a higher position and advancement to a higher pay scale - are described by the common term “promotion”, does not mean that they are the same. The two types of promotion are distinct and have different connotations and consequences.*

*(ii) Upgradation merely confers a financial benefit by raising the scale of pay of the post without there being movement from a lower position to a higher position. In an upgradation, the candidate continues to hold the same post without any change in the duties and responsibilities but merely gets a higher pay scale.*

*(iii) Therefore, when there is an advancement to a higher pay scale without change of post, it may be referred to as upgradation or promotion to a higher pay scale. But there is still difference between the two. Where the advancement to a higher pay scale without change of post is available to everyone who satisfies the eligibility conditions, without undergoing any process of selection, it*



will be upgradation. But if the advancement to a higher pay scale without change of post is a result of some process which has elements of selection, then it will be a promotion to a higher pay scale. In other words, upgradation by application of a process of selection, as contrasted from an upgradation simpliciter can be said to be a promotion in its wider sense, that is, advancement to a higher pay scale.

(iv) Generally, upgradation relates to and applies to all positions in a category, who have completed a minimum period of service. Upgradation, can also be restricted to a percentage of posts in a cadre with reference to seniority (instead of being made available to all employees in the category) and it will still be an upgradation simpliciter. But if there is a process of selection or consideration of comparative merit or suitability for granting the upgradation or benefit of advancement to a higher pay scale, it will be a promotion. A mere screening to eliminate such employees whose service records may contain adverse entries or who might have suffered punishment, may not amount to a process of selection leading to promotion and the elimination may still be a part of the process of upgradation simpliciter. Where the upgradation involves a process of selection criteria similar to those applicable to promotion, then it will, in effect, be a promotion, though termed as upgradation.

(v) Where the process is an upgradation simpliciter, there is no need to apply rules of reservation. But where the upgradation involves a selection process and is therefore a promotion, the rules of reservation will apply.

(vi) Where there is a restructuring of some cadres resulting in creation of additional posts and filling of those vacancies by those who satisfy the conditions of eligibility which includes a minimum period of service, will attract the rules of reservation. On the other hand, where the restructuring of posts does not



*involve creation of additional posts but merely results in some of the existing posts being placed in a higher grade to provide relief against stagnation, the said process does not invite reservation.”*

27. We shall now examine whether such upgradation would postpone the grant of MACP Scheme benefits. The objective of the MACP Scheme is to give relief to the employee stagnated in the same Grade Pay, by providing them periodical financial upgradations to the immediate next higher Grade Pay. Emphasis in Clause 1 of the MACP Scheme is on the expression ‘Grade Pay’. The same reads as under:

*“1. There shall be three financial upgradations under the MACPS, counted from direct entry grade on completion of 10, 20 and 30 years of service respectively. Financial upgradation under the Scheme will be admissible whenever a parson has spent 10 years continuously in the same grade-pay.”*

28. The scheme is designed to provide relief only where an employee remains stagnant in the same Grade Pay for 10, 20, or 30 years. However, where an employee has already received an advancement to a higher Grade Pay, the foundational premise of stagnation ceases to exist. The MACP Scheme does not contemplate granting benefits to employees who have already escaped the Grade Pay stagnation through any other mechanism/scheme.

29. In *Union of India & Ors. v. N.M. Raut & Ors.*, 2024 INSC 1042, the Supreme Court was dealing with a situation where employees had received non-functional upgradation to higher Grade Pay after completion of two or four years of service pursuant to implementation of the CCS (Revised Pay) Rules, 2008. The



employees claimed that such upgradation should be ignored while computing their entitlement under the MACP Scheme. The Supreme Court rejected this contention, holding that financial upgradations granted through any mechanism, must be accounted for while determining MACP entitlements. The Supreme Court observed as under:

*“13. A careful reading of the aforesaid clauses/provisions reflects the objective purpose of the MACPS, that is, that an employee should not remain stagnant in the same pay scale/Grade Pay for periods of 10, 20 or 30 years. In such cases, the employee would be entitled to financial upgradation to the immediate next higher Grade Pay, as mentioned in Section 1, Part-A of the first Schedule to the CCS RP Rules. Emphasis in clause 1 is on the expression "Grade Pay". Clause 2, similarly, states that the benefit under the MACPS is available where the eligible employee has not got regular promotion. In such cases, he/she will be given financial upgradation. However, such financial upgradation is not the same as a pay-scale/Grade Pay, which is applicable to the next promotional post in the hierarchy of the concerned cadre/ organization.*

**xxxxx**

*16. Clause 13 of the MACPS states that any time-bound promotion scheme, including in-situ promotion scheme, which is in force, may continue to be in operation for the concerned category of employees if it is decided by the concerned administrative authorities to retain such schemes. However, such schemes cannot run concurrently with the MACPS. The objective is clear. An incumbent eligible Government employee should not take the benefit of both - the time-bound promotion scheme or in-situ promotion scheme as well as the benefit of financial upgradation under the*



MACPS. We have specifically referred to clause 13 for, in our opinion, the financial upgradation which is granted, after two or four years of service, to Pharmacists or Superintendents, would indicate that they availed financial upgradation. In their cases, because of service conditions, the Government had thought it proper to grant them such financial upgradation after they completed two or four years of service in the lower pay-scale/Grade Pay. **It is not the intention of the Government to ignore the said upgradation under the CCS RP Rules. If we do so, we would be granting them additional benefits beyond what was envisaged and stated in the MACPS. The Revised Pay Rules, including a grant of financial benefits, and the MACPS are not two watertight or separate compartments, each conferring independent benefits without reference to the other. Grant of financial upgradations as well as promotions are to be duly accounted for and taken into consideration in the MACPS.**

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20. **In view of the aforesaid position of the MACPS, we fail to understand how we can ignore the financial upgradation, which was granted upon completion of two or four years of service in the posts of Pharmacist or Superintendent, as the case may be, for the purpose of deciding as to whether or not the Government employee would be entitled to the next financial benefit under the MACPS. To ignore the financial upgradation granted on completion of two or four years of service as Pharmacists or Superintendents, would be contrary to the intent and purpose of the scheme, the language employed as well as the examples/illustrations which have been given.** No doubt, certain anomalies may arise because of the fact that the ACPS and MACPS did operate during different periods; the nature of financial upgradations was different; and the time periods specified for financial



*upgradation were different, but this cannot be a ground and reason to re-write or ignore the expressed language of the MACPS and the intent and purpose behind the scheme. Read in this light, we have no difficulty in accepting the present appeal and setting aside the impugned judgments. Hence, we allow the present appeals.”*

30. What emerges from the above is that any advancement to a higher Grade Pay, be it styled as promotion, financial upgradation, or placement following restructuring, must be reckoned for purposes of the MACP Scheme. The present case is directly covered by this principle. The petitioners received placement in HS Grade-I with Grade Pay of Rs.2800, which was admittedly higher than the Grade Pay of Rs.2400 applicable to HS Grade-II. This was not a case of mere re-designation, but involved advancement to a higher Grade Pay based on seniority following restructuring. To ignore this advancement and grant MACP benefits would be to confer double benefit, which goes against the objective of the MACP Scheme.

31. Accordingly, in terms of the MACP Schemes, such placement would be required to be counted for the purpose of financial upgradation, thereby denying the petitioners the benefit of the said Schemes.

32. In *Shri F.C. Jain* (supra), the issue before this Court was whether the respondent therein could have been denied the upgradation in pay scale pursuant to acceptance of recommendations of the 6<sup>th</sup> CPC, only because he had been granted the benefits of ACP Scheme. This Court held that, as the two were different, the



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respondent could not have been denied the benefit of upgradation under the Sixth CPC. The said judgment, therefore, would have no application to the facts of the present case.

33. In view of the above, we find that the petitioners, having been placed in HS Grade-I pursuant to the de-merger of the post based on their seniority, are not entitled to the grant of the MACP Scheme benefits.

34. Accordingly, the Impugned Order dated 13.11.2013 passed by the learned Tribunal in O.A. No.4101/2012 is set aside while the Impugned Order dated 24.11.2015 passed in O.A. No.778/2014 is upheld.

35. The petitions, along with the pending application, are disposed of in the above terms.

36. The parties shall bear their own costs.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**OCTOBER 9, 2025/ns/Yg**