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W.P.Nos.13022 of 2014 and 13023 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:16.08.2023

Delivered on: 29.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.Nos.13022 of 2014 and 13023 of 2014

and

W.M.P.Nos.1 & 2 of 2014

W.P.No.13022 of 2014

1. The Union of India,
represented by the Secretary to Government
Ministry of Finance,
Department of Revenue,
Central Board of Excise and Customs,
North Block, New Delhi – 110 001.

2. The Chairman,
Central Board of Excise and Customs,
North Block, New Delhi – 110 001.

3. The Chief Commissioner of Central Excise,
No.26/1, (Old No.121), M.G. Road,
Nungambakkam, Chennai-600 034.

4. The Commissioner of Central Excise
Chennai I Commissionerate,
No.26/1, (Old No.121), M.G. Road,
Nungambakkam, Chennai-600 034.

... Petitioners in both W.P. Nos.



W.P.Nos.13022 of 2014 and 13023 of 2014

Vs.

1. D. Krishnamoorthy S/o. P.K. Dhadapani (late),
2. S. Ekambaram S/o. Sivaperuman (late),
3. The Registrar,
Central Administrative Tribunal
Madras Bench,
Additional City Civil Court Building,
High Court Campus, Chennai-600 104.

... Respondents in W.P. No.13022 of 2014

1. J. Francis Xavier S/o. R. Joseph Ratnam
2. The Registrar,
Central Administrative Tribunal
Madras Bench,
Additional City Civil Court Building,
High Court Campus, Chennai-600 104.

... Respondents in W.P. No.13023 of 2014

PRAYER in W.P. No.13022 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to quash the order Hon'ble Central Administrative Tribunal, Chennai Bench in O.A. No.1100 of 2012 by order dated 05.06.2013.

PRAYER in W.P. No.13023 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to quash the order Hon'ble Central Administrative Tribunal, Chennai Bench in O.A. No.1097 of 2012 by order dated 05.06.2013.

For Petitioners in Mr. V. Sundareswaran
both W.P. Nos. :



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For Respondents : Mr. L. Chandrakumar [for R1
& R2 in W.P. No.13022 of 2014
and for R1 in W.P. No.13023 of 2014]

COMMON JUDGMENT

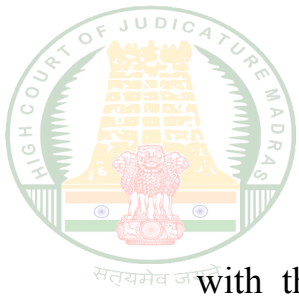
(Judgment of the Court was made by P.B.BALAJI,J.)

The Petitioners, Union of India represented by its Secretary and others were the unsuccessful respondents before the Tribunal in O.A. Nos.1097 and 1100 of 2012 respectively.

2. The 1st and 2nd respondents are employees of the Central Excise Department, who were promoted as Inspectors and subsequently working as Superintendents. The grievance of the respondents 1 & 2 was that the petitioners did not extend the ACP/MACP benefits to them, on par with their juniors.

3. The Tribunal, after considering the contentions canvassed by the petitioners herein and relying on the decision of Hon'ble Supreme Court in Civil Appeal Nos.3250/2006...etc, allowed the OAs and directed the petitioners herein to extend the ACP/MACP benefits to respondents 1 & 2, on par with the juniors.

4. The said order of the Tribunal is under challenge in the above Writ petitions, on the grounds that the respondents claim to be treated on par



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with the case of the juniors was erroneously ordered by the Tribunal, misdirecting itself comparing officers who have entered Government Service under direct recruitment quota with government servants who were promoted to such post. It was also contended that the Scheme provides for financial upgradation with a definite objective and the same would prevail over general fundamental rules regarding pay fixation. Moreover the scheme cannot be extended to employees who earned three promotions within a span of 25 years of service.

5. We have heard Mr. L. Sundareswaran, the learned counsel for the petitioners in both the writ petitions and Mr. L. Chandrakumar, the learned counsel for the respondents 1 & 2 in W.P. No.13022 of 2014 and for the 1st respondent in W.P. No.13023 of 2014. We have also perused the records produced before us.

6. Though arguments were advanced on the facts of two writ petitions, the counsel for the respondents 1 and 2 would rely on the Division Bench Judgement of this Court in *W.P.Nos.1078, 10046, 10049 and 18262/2012* dated 03.04.2014, where this Court, in similar circumstances, directed the employer to grant revised pay by extending the benefit of MACP Scheme by fixing their grade pay from the date on which

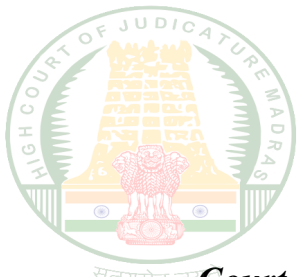


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the said benefit was extended to their juniors. The learned counsel of the respondent would also rely on another Division Bench judgement of this Court in *W.P.Nos.1648 and 1649 of 2016* dated 19.02.2016, where also the issue of implementation of the Modified Assured Career Progression Scheme (MACP) introduced in line with the recommendations of the 6th Pay Commission was in issue before the Tribunal as well as this Court. The contentions of the Government that consequent to promotions, employees were conferred with specific grade pay having got stagnated were considered and conferred with higher grade pay and that such conferment was purely personal to them and did not have any relevance to the seniority position and therefore stepping up of pay in the pay band on grade pay would be inadmissible. The Division Bench after considering all the questions raised in the said Writ petitions and also following the dictum of the Hon'ble Supreme Court as well as the earlier Division Bench judgment in *W.P.Nos.18611 and 18612 of 2011* dated 19.03.2014, dismissed the Writ petitions, upholding the order of the Tribunal to extend the benefit of the Scheme to the petitioners therein.

7. The Learned Counsel for the respondents 1 & 2 are also invited our attention to an order of the *Division Bench of the Karnataka High*



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Court dated 31.07.2021 in W.P.No.33038 of 2016 (S- CAT) where also,

the Division Bench of the Karnataka High Court held that the employees were entitled to step up of pay in line with pay scale granted to the juniors.

The said order of the Karnataka High Court was challenged by the Government of India, before the Hon'ble Supreme Court in **Civil Appeal**

Nos.2087-2088 of 2022. The Hon'ble Supreme Court confirmed the order

of the High Court and held that the grievance of the employees was with respect to anomaly in pay scale whereby their juniors were getting higher

salaries than them. The Apex Court taking note of the fact that the junior was drawing more than the amount of upgradation under ACP Scheme was

indeed an anomaly and upheld the order of the Division Bench of High Court of Karnataka. It is also seen that the Central Government sought to

review the said judgement of the Hon'ble Supreme Court in the said matter and on 21.02.2023 the said review petitions were also dismissed as there

was no error apparent on the face of the record, warranting reconsideration of the judgment rendered earlier.

8. The facts of the present case are also pertaining to the very same issue of a junior receiving a higher pay than the respondents 1 and 2 as a result of the application of the MACP Scheme. We have also perused the



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order of the Tribunal and we do not find any infirmity in the findings rendered by the Tribunal, ultimately directing the petitioners herein to extend the benefits of ACP/MACP Scheme to the respondents 1 and 2 on par with the juniors.

9. In view of the fact that the law on this issue has also been settled by the Apex Court as already discussed hereinabove, we see no reason to interfere with the order of the Tribunal.

10. For all the above reasons, the above Writ petitions are devoid of merits and consequently stand dismissed and there shall be no orders as to costs. The connected miscellaneous petitions are closed.

(D.K.K.J) & (P.B.B.J)

29.08.2023

Internet : Yes
Index:Yes/No
Neutral Citation:Yes/No
mjs

To

The Registrar,
Central Administrative Tribunal
Madras Bench,
Additional City Civil Court Building,
High Court Campus, Chennai-600 104.



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W.P.Nos.13022 of 2014 and 13023 of 2014

D.KRISHNAKUMAR, J.,
and
P.B.BALAJI,J

(mjs)

Pre-delivery judgment in
W.P.Nos.13022 of 2014 and 13023 of 2014
and
W.M.P.Nos.1 & 2 of 2014

29.08.2023