

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH, ERNAKULAM

O.A.No. 180/00666/2015

O.A. No.180/00667/2015

&

O.A.No.180/00668/2015

Dated this Thursday, the 31st day of March, 2016

CORAM:

HON'BLE MR. U. SARATHCHANDRAN, JUDICIAL MEMBER

HON'BLE MR. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

1. O.A.No. 180/00666/2015

1. Varghese P.Mathew, aged 57 years,
S/o, Lae P.M. Mathew,
Asstt.Accounts Officer, O/o the Cotroller of
Communication Accounts,
Kerala Circle, Trivandrum 695033, r/a:
Paridayil House, Erumakad, P.O.
Edayaranmula, Patanamthitta 689532.
2. R.Geetha Kumari, aged 50 years, D/o G.K. Radhakrishnan,
Asst. Accounts Officer, O/o the Cotroller of
Communication Accounts,
Kerala Circle, Trivandrum 695033, r/a:
'Lalitha Krishan'Melehempanoor, Trivandrum 695001.
3. Girija Joseph, aged 52 years,D/o Damodharan,
Asstt. Accounts Officer, O/o the Cotroller of
Communication Accounts, DoT,
Kerala Circle, Trivandrum 695033, r/a:
TC 5/1905 (9), Aduppukallumkal,
Sree Krishna Lane, Kowdiar P.O. Trivandrum.
4. K Gayathreedevi, aged 57 years, D/o. S. Kumaraswami Pillai,
Asst. Accounts Officer, O/o the Cotroller of
Communication Accounts, DoT
Kerala Circle, Trivandrum 695033, r/a:
Vrindavan L-181, LIC Lane, Pattom,
Trivandrum 695 004.
5. Sudha Hari, aged 54 years, D/o Late Ananthakrishna Pillai,
Asstt. Accounts Officer, O/o the Cotroller of
Communication Accounts,
Kerala Circle, Trivandrum 695033, r/a:
'Saras' TC.36/730 (2), Samajam Lane, Perunthanni,
Trivandrum 695008.

6. P. Prasannakumari, aged 55 years, D/o Velayudha Pillai, Asst. Accounts Officer, O/o the Cotroller of Communication Accounts, Kerala Circle, Trivandrum 695033, r/a: J-95 Jyothinagar, Kesavadasapuram, Pattom P.O., Trivandrum.
7. G. Radhamony, aged 57 years, D/o Gangadharan Pillai, Asst. Accounts Officer, O/o the Cotroller of Communication Accounts, Kerala Circle, Trivandrum 695033, r/a: Uthradam, TC 6/516-2, Vattiyoorkavu P.O., Trivandrum.
8. P. Rajaram, aged 59 years S/o KunhIRama Poduval, Asst. Accounts Officer, Kerala Circle Stamp Depot, Kochi 682020.
9. Pushpa Sunny, aged 59 years D/o. V. Parthasarathy, Asst. Accounts Officer, O/o the DAP, GPO, Trivandrum 695033, r/a: PLRA -26, TC 10/1661-4, Pulimoodu Lane, Vattiyoorkavu P.O, Trivandrum 695 013.
10. V.Mohan, aged 55 years S/o Late Venketarama Sastri, Asst.Accounts Officer, DAP, Trivandrum 695033, r/a KRA 74 (A), Soman Nagar, TC 21/1042 (3), Karamana PO, Trivandrum 695 002.
11. S. Mahohara Das, aged 57 years, S/o Late P. Selvamani Asst.Accounts Officer, DAP, Trivandrum 695033, r/a 18-47 B5, Kuzhithura West, Kuzhithura P.O. Pin. 629 163.
12. A.V. Ramesh Kumar, aged 58 years, S/o. S. Anandan Pillai, Asst.Accounts Officer, O/o DAP, Trivandrum 695033, r/a 'Saurabhi' TC 6/1740 (2), Ullas Nagar, UNRA-41, Elippodu, Thirumala P.O. Trivandrum 695006.
13. A Kumar, aged 51 years S/o, V.Ananthasubramaniya Iyer, Asst. Accounts Officer, O/o DAP, Trivandrum 695033, r/a TC 36/980-2, Peruvathani, Trivandrum 695 008.
14. S. Balagopal, aged 54 years, S/o Dr. S.K.Menon, Asst.Accounts Officer, O/o DAP, Trivandrum 695033, r/a B-8, Thanal, Winners nagar, Peroorkada, Trivandrum 695005.

15. G. Chandrababu, aged 58 years, S/o Late Gopala Pillai,
Asst.Accounts Officer, O/o
DAP, Trivandrum 695033, r/a Ushus, Kamdmpazhinji P.O.
Poovar, Trivandrum 695528. Applicants in

O.A. 180/00666/2015
(Applicants by Mr. Shafik M.A., Advocate)

vs.

1. Union of India,
represented by its Secretary to Government of India,
Department of Posts, Ministry of Communications,
New Delhi 110 001.
2. The Member (Finance)
Department of Telecommunications,
Sanchar Bhavan, New Delhi.
3. The Deputy Director General,
Postal Accounts & Finance, Ministry of Communications & IT.
Dak Bhavan, New Delhi 110 001.
4. The Asst. Director General (PA-Admn)
Postal Accounts, Wing, Department of Posts,
Ministry of Communications & IT, Dak Bhavan,
New Delhi 110 001.
5. The Director of Accounts (Postal)
Office of the DAP, GPO, Complex, Trivandrum 695033.
6. The Controller of Communications Accounts,
Kerala Circle, Trivandrum 695033. b in O.A.
666/2015
(Respondents by Mr. E.N. Hari Menon, ACGSC)

2. O.A. No.180/00667/2015

1. C.K. Rajendran, aged 56 years S/o C. Kunhi Kanna Vaidyar,
Senior Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a TC 6/916-4,
'Pragathi' Padayani Road, Vattiyoorkavu P.O.,
Trivandrum 695013.
2. K. Dileep Kumar, aged 55 years, S/o V Krishnan Nair,
Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a
J-1, Pournami, Kurup's Lane, Sasthamangalam,
Trivandrum 695010.

3. N. Abdul Hakim, aged 59 years S/o Noohu Kunju, Accounts Officer, O/o the Controller of Communication Accounts, DoT Kerala Circle, Trivandrum 695033, r/a BN 139(A), 'Firdous' Bapuji Nagar, Durga Lane, Pongumoodu, Medical College P.O., Trivandrum 695011.
4. E.A. Sekharan Nair, aged 59 years, S/o K. Ayyapan Nair, Assistant Accounts Officer, O/o the Controller of Communication Accounts, DoT Kerala Circle, Trivandrum 695033, r/a J-95, Jyothi Nagar, Kesavadasapuram, Pattam PO, Trivandrum 695004.
5. K.S. Usha Devi aged 57 years, D/o Late K.S.Namboothiri, Accounts Officer, O/o the Controller of Communication Accounts, Kerala Circle, Trivandrum 695033, r/a 'Kunnamparambath mana', Snehapuri Road, Karamana P.O. Trivandrum.
6. I.Padmaja, aged 56 years, D/o Indira Bai Amma, Accounts Officer, O/o the Director of Accounts (Postal) Kerala Circle, GPO Complex, Trivandrum 695001, r/a 'Thiruvathira' Kottamkara, Chandanathope P.O. Kollam,
7. Madhuri Rajagopal, aged 53 years, D/o K. Rajagopalan, Accounts Officer, O/o the Director of Accounts (Postal) Kerala Circle, GPO Complex, Trivandrum 695001, r/a: Rakendu, TC 17/929-1, Vidhyadhi Raja Nagar, Poojapura, Trivandrum.
8. K.K.Lalitha, aged 51 years, W/o E.P. Gopinathan, Accounts Officer, O/o the Director of Accounts (Postal) Kerala Circle, GPO Complex, Trivandrum 695001, Permanently r/a: Kunnath Meethal House, Nitumbram, Chokli P.O. 670672.
9. K.V.Kumar, aged 56 years, S/o K. Velappan Pillai, Accounts Officer, O/o the Controller of Communication Accounts, Kerala Circle, Trivandrum 695033, r/a Avittam, RRA-19, Ramapuram Lane, NCC road, Ambalamukku, Peroorkada PO, Trivandrum.
10. Varghese Chacko, aged 53 years, S/o Chacko Chacko Asst. Accounts Officer, O/o the DAP , GPO, Trivandrum 695033, r/a GRA-205, T.C. 2/1623 (3) Kottara Lane, Gowreesapattom, Trivandrum 695004.

11. Antony Sunny, aged 59 years, S/o C.J. Antony,
Accounts Officer, O/o the DAP , GPO,
Trivandrum 695033, r/a Pockathil, PIRA-26, T.C.
10/1661-4, Pulimoodu Lane,
Vattiyoorkavu, Trivandrum 695013.
12. Sobha Nandakumar, aged 56 years, D/o Late M.N. Narayana Panicker,
Accounts Officer, O/o the DAP , GPO,
Trivandrum 695033, r/a Shivam, PRA 137/B, Padayani Road
Vattiyoorkavu P.O.
Trivandrum 695013.
13. R.Satiadas, aged 56 yers, S/o. K. Ramayyan,
Accounts Officer, O/o the Postmaster General,
Central Region, Cochin 682020,
permanently resident of
Neduvilai, Malaicod, Edaicode .O. 629 152.
14. T.S. Shaji, aged 57 years, S/o T.K. Sreedharan,
Accounts Officer, O/o the Chief Postmaster General,
Kerala Circle, Trivandrum, 695033,
resident of Sreesailam VRA 52, Mannamoola,
Peroorkada, Trivandrum.
15. A.S. Muraleedharan Pillai, aged 57 years,
S/o Late P.K. Sivarama Pillai,
Asstt. Accounts Officer, O/o the DAP,
Trivandrum 695033,R/a N-9, Sreevalsam,
Jawahar Nagar, Kowdiar, Trivandrum.
16. K.T.Joseph, aged 51 years, S/o K.L. Thomas,
Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a
Karikkattu Vadakkethil House, Chayoth P.O.
Nileshwar, Kasargod. Applicants in O.A.

No.667/2015
(Applicants by Mr. Shafik M.A. , Advocate)

vs.

1. Union of India,
represented by its Secretary to Government of India,
Department of Posts, Ministry of Communications,
New Delhi 110 001.
2. The Member (Finance)
Department of Telecommunications,
Sanchar Bhavan, New Delhi.

3. The Deputy Director General,
Postal Accounts & Finance, Ministry of Communications & IT.
Dak Bhavan, New Delhi 110 001.
4. The Asst. Director General (PA-Admn)
Postal Accounts, Wing, Department of Posts,
Ministry of Communications & IT, Dak Bhavan,
New Delhi 110 001.
5. The Director of Accounts (Postal)
Office of the DAP, GPO, Complex, Trivandrum 695033.
6. The Controller of Communications Accounts,
Kerala Circle, Trivandrum 695033. B

in O.A. 667/2015
(Respondents by Mr. S. Ramesh, ACGSC)

3. O.A.No.180/00668/2015

1. A. Nandakumaran, aged 63 years S/o Late, Kunjuni Nair,
Accounts Officer (Retired), O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
R/a 'Sivoham' PRA 137-B, Padayani Road,
Vattiyoorkavu P.O., Trivandrum 695013.
2. R.S. Narayanan, aged 60 years S/o Late J. Reghupathy Iyer
Accounts Officer (Retired), O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
r/a: TC 43/491(15), 'Aiswarya', Trimoorthy Nagar,
Vallakadavu P.O., Trivandrum 695008.
3. K.V. Sivaprasad, aged 61 years, S/o Late K. Velayudhan,
Accounts Officer (Retired), O/o the Controller of Communications Accounts,
DoT Kerala Circle, Trivandrum 695033.
residing at TC 32/2146, 'Sruthy' Maruthankuzhy
Kanjirampara P.O.
Trivandrum 695030
4. K. Radhakrishnan, aged 61 years, S/o K. Rabhava Menon,
Accounts Officer (Retired), O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001 r/a
'Renjini' TC 9/1925-2, Kochar Road, P057,
Sasthamangalam, Trivandrum 695010.
5. S.K.Selvam, aged 64 years, S/o Late C. Kumaraswamy,
Asstt. Accouns Officer (Retired), O/o the Dy. Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001 r/a
'Mini Nivas', TC. 20/1209, Meleranoor, Karamana, Trivandrum 695002.

6. K. Mohanachandra Babu, aged 62 years S/o V.Sivathanu,
Asst. Accounts Officer (Retired),
O/o the Controller of Communications Accounts,
Door Sanchar Bhavan, 4th floor, P.M.G Juntion,
Trivandrum 695 (4), Mookad Lane,
Anayar P.O. Trivandrum 695029.
7. S. Veerapudran, aged 62 years, S/o V. Sivathanu,
Accounts Officer (Retired), O/o the Controller of Communications Accounts,
DoT Kerala Circle, Trivandrum 695033.
r./a TC 76/2613 (4) Mookad Lane, Anayara PO,
Trivandrum 695029.
8. P. Madhusoodanan Nair, aged 61 years,
S/o Late S. Parameswaran Nair,
Asst. Accounts Officer (Retired),
O/o the Controller of Communications Accounts,
DoT Kerala Circle, Trivandrum 695033.
R/a TC III/629 (2) MGRA-130, TKD Road, Muttada P.O.,
Trivandrum 695025.
9. P.R. Vrijangana, aged 64 years, D/o Late P.K. Raghavan,
Asst. Accounts Officer (Retired),
O/o the Controller of Communications Accounts,
DoT Kerala Circle, Trivandrum 695033.
R/a: 9/979, Krishnakripa, Sasthamangalam P.O.
Trivandrum 695010.
10. P. Rajanayagam, aged 62 years,
S/o P. Perinbayayagam Asst. Accounts Officer (Retired),
O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
r/a 474, II Avenue, Nesamony Nagar,
Poonga, Nagercoil 629001.
11. K. Veeramoi, aged 65 years, S/o Late K. Krishna Iyer,
Asst. Accounts Officer, O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
r/a 'Srivalsam' KERA 17, Koillamthoppe,
Karumon, Karamana PO. Trivandrum 695002.
..... Applicants

in OA 668/2015
(Applicants by Mr. Shafik M.A. Advocate)

vs.

1. Union of India,
represented by its Secretary to Government of India,
Department of Posts, Ministry of Communications,
New Delhi 110 001.

2. The Member (Finance)
Department of Telecommunications,
Sanchar Bhavan, New Delhi.
3. The Deputy Director General,
Postal Accounts & Finance, Ministry of Communications & IT.
Dak Bhavan, New Delhi 110 001.
4. The Asst. Director General (PA-Admn)
Postal Accounts, Wing, Department of Posts,
Ministry of Communications & IT, Dak Bhavan,
New Delhi 110 001.
5. The Director of Accounts (Postal)
Office of the DAP, GPO, Complex, Trivandrum 695033.
6. The Controller of Communications Accounts,
Kerala Circle, Trivandrum 695033. b

in O.A. 668/2015
(Respondents by Mr. K.S. Dilip, ACGSC)

This Application having been finally heard and reserved for orders on 26.02.2016, the Tribunal on 31.03.2016 delivered the following:

ORDER

PER: MR. U. SARATHCHANDRAN, JUDICIAL MEMBER

Since the controversy involved in these three cases and the parties therein are identically situated, a common order is being passed.

2. The applicants in these cases are Accounts Officers and Assistant Accounts Officers in the Offices of the Controller of Communication of Accounts and the Director of Accounts (Postal). They are aggrieved by the refusal of their requests by the respondents to extend the benefit of Annexure A/2 order of the Madras Bench of this Tribunal, which was confirmed by Annexure A/3 judgment of the High Court of Madras for stepping up their Grade Pay to Rs. 5400/- at par with their subordinates who draw the same grade pay with effect from the date on which their subordinates were granted the same i.e. from 1.9.2008. Applicants were promoted to the post of Assistant Accounts Officers after qualifying in the examination conducted for the same. The Senior Accountant with a lower scale of pay is the feeder cadre to the post of Assistant Accounts Officer. When the posts of Senior Accountants and Assistant Accounts Officers were merged as per the recommendations of the 6 th Central Pay Commission, both the posts were granted the Grade Pay of Rs. 4800/- with effect from 1.1.2006. However, the Senior Accountants who did not qualify in the promotion test were granted the Grade Pay of Rs. 5400/- on completion of 20 years of service and have started drawing more pay than the applicants who are still drawing only Rs. 4800/- as their Grade Pay though they have qualified in the promotion test and have been promoted to the

present post. The Madras Bench of this Tribunal allowed the claim of the Assistant Accounts Officers working in the office of Accountant General (A&E)'s Office, Tamil Nadu vis-a-vis their subordinate officials- Senior Accountants who were granted a higher Grade Pay of Rs. 5400/ on account of implementation of the MACP Scheme which was more than the Grade Pay of Rs.4800/- still being received by the Assistant Accounts Officer. By way of representations addressed to the respondents, applicants in these O.As. have sought the benefit of the aforesaid decision of the Madras Bench of this Tribunal which was affirmed by Annexure A/3 judgement of the High Court of Madras. However, the respondent No.1 rejected those requests vide Annexure A/1 which reads as follows:

'No.38(2)/14/PA-Admn.1/26-106
Government of India,
Ministry of Communications & IT,
Department of Posts,
Postal Accounts Wing,
Dak Bhavan, New Delhi 110 001.

Dated 20 April, 2015.

To

All the General Managers (PAF),

All the Pr. CCA,

All the Directors of Accounts (P)

Sub: Grant of Grade Pay of Rs. 5400 - to Assistant Accounts Officer -

On the basis of Court's judgment.

Sir,

I am directed to refer on the aforesaid subject and to intimate that numerous representations have been received in the office for grant of Grade Pay of Rs.5400/- to AAOs by extending the benefit of Hon'ble CAT judgment passed in OA No. 966 & 967 in respect of OA filed by the applicants belonging to C&AG. The case was referred to C&AG and it has been clarified vide their letter dated 31.03.2015 that 'the benefit of Hon'ble CAT judgment passed in OA. No.966 & 967 has been extended only to the applicants to the OA. The Tribunal's decision cannot be treated as universal and extended to similarly placed persons. The same has not been extended to any other employees on this Department.'

All the representationist may be informed that their representations on the subject stand disposed off accordingly.

Yours faithfully,

(R.S. Rawat)

Assistant Director General (P-Admn)'

3. The applicants pray for relief as under:

'(i) To call for the records relating to Annexure A-1 to A-5 and quash A/1 to the extent it rejects the applicant's request for extending the benefits of the grade pay of Rs.5400/- granted as per A-2 and A-3 judgments.

(ii) To declare that the applicants are entitled and eligible to be granted the grade pay of Rs. 5400/- with effect from the date of their subordinate, erstwhile

senior accountants, is granted the Grade Pay of Rs.5400/-. Even if on MACP, i.e. with effect from 1.9.2008 with all consequential benefits and arrears with 12% interest.

(iii) To direct the respondents to grant the Grade Pay of Rs. 5400/- with effect from the date their subordinate, P.M. Victor, erstwhile senior Accountant, is granted, i.e. with effect from 1.9.2008 with all consequential benefits and arrears with 12% interest.

(iv) Issue such other appropriate orders or Directions, this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case.

And

(v) To grant the costs of this Original Application.'

4. Respondents stiffly resisted the claim of the applicants in these OAs mainly contending that the post of Accountant/Senior Accountant and the Accounts Officer/Accounts Officer belonged to two different and distinct cadres and therefore, the applicants cannot be aggrieved by the higher pay drawn by the Senior Accountants who were bestowed with the financial up gradation under the MACP Scheme. They further contend that the Accountants/Senior Accountants who have spent more than twenty years of service in their cadre without any promotion were granted the ACP benefits when they completed 12 years of service in the same post and when the 6th Pay Commission introduced the scheme of MACP such officials who have completed twenty years of service were granted the second financial up gradation. Accordingly those Senior Accountants who were granted with Grade Pay of Rs. 4800/- and remained without getting promotion to the next higher post/Assistant Accounts Officer were placed in the second MACP with the next higher Grade Pay of Rs.5400/- because of the operation of the MACP Scheme which conferred them financial up gradation with a higher Grade Pay than the Assistant Accounts Officers who belong to a different cadre and category altogether.

5. Rejoinders were filed by the applicants refuting the averments of the respondents.

6. We have heard Shri Shafik learned counsel appearing for the applicants in these O.As; Mr. S. Ramesh, learned ACGSC for the Respondents in O.A. No. 666/2015; Mr. Hari Menon, learned ACGSC for the Respondents in O.A. No. 667/2015, and Mr. K.S. Dilip, learned ACGSC for the Respondents in O.A. No. 668/2015. Applicants' counsel submitted that the case of the applicants is fully covered by the decision in the common order dated 29.10.2010 of the co-ordinate Bench of the Tribunal at Madras in O.A.No.966/2009 and 967/2009 which was upheld by the High Court of Madras vide common judgement/order dated 19.3.2014 in W.P Nos. 18611 & 18612 of 2011. It was argued by the learned counsel for the respondents that the aforementioned cases of the Madras Bench of this Tribunal relate to the Section Officers and Assistant Accounts Officers of the Accountant General's Office, Tamil Nadu at Chennai and that hence the decision in those cases cannot be made applicable in the instant cases.

7. We have carefully considered Annexure A/2 copy of the Order of Madras Bench of this Tribunal and also the A/3 Judgement of the Madras High Court in the aforesaid Writ Petitions. We note that although the nomenclature of the two categories of officials are different, the grievance and contentions of the parties in

the Original Applications before the Madras Bench are all in fours with those of the parties in these three O.As including the quantum of the Grade Pay for which the applicants claim parity with their juniors in the lower cadre. Pleadings and contentions in the Madras case are similar to those in these cases. Those pleadings have been paraphrased by the High Court in Annexure A/3 order. We feel it worthwhile to extract the relevant portions of the Annexure A/3 order of the Madras High Court. It reads:

'3. Mr. T. Ravikumar, learned counsel appearing for the writ petitioners, contended that as per the MACP scheme dated 19.5.2009, no stepping up of pay in the pay band or grade pay would be admissible with regard to junior getting more pay than the senior on account of pay fixation under MACP scheme and insofar as persons serving the Indian Audit and Accounts sections are concerned, orders will be issued after consultations with the comptroller and Auditor General of India and therefore, it is not open to the private respondents/original applicants to base their claim on the basis of FR.22. It is further submitted by the learned counsel appearing for the petitioners that private respondents in these writ petitions, already got three promotions where as the private respondents 4 to 26 in the original applications have got only two promotions and therefore they were rightly conferred with the benefits of MACP scheme by putting them in the pay grade of Rs.5400/- and as per the said scheme, it is purely a personal one and there shall be no change in the designation, classification or higher status and have no relevance to the seniority position and as such, it cannot be said that the private respondents are aggrieved persons. Moreover, MACP scheme, being the offshoot of the recommendation made by the VI th pay commission, has to be read with in consonance with CCS (Revised Pay) Rules, 2008 notwithstanding the provisions of FR-22 and on that ground also, the private respondents are not entitled to make their claim that they should be put in grade pay of Rs.5400/- as that of respondents 4 to 26 in the original applications. The learned counsel appearing for writ petitioners has also drawn the attention of this court to the additional affidavit dated 5.2.2014 filed in these writ petitions, wherein this court has sought clarification on these aspects while reiterating the stand taken by them in the original applications and therefore, prays for getting aside the impugned, common order passed in the original applications.

4. Per contra, the learned counsel appearing for the private respondents has contended that even as per their own admission, it has been stated that the private respondents 4 to 26 in the original applications were promoted as section officers (ad hoc) with no supervisory power and they continue to work under the original applicants/ respondents in these writ petitions and though a specific stand was taken that on account of non passing of the departmental examinations, they could not get promotion and consequently got stagnated, the said fact has not been specifically denied in the counter statement and therefore, stagnation has happened only on account of the above said act on the part of the respondents 4 to 26 and therefore they ought not to have been put in the pay grade of Rs. 5400/-. It is the further submission of the learned counsel appearing for the private respondents that at this distant point of time, they do not want to deprive of the benefits given to the private respondents 4 to 26 in the original application and the private respondents herein only want up gradation of their pay scale to Rs.5400/- as given to their juniors, namely respondents 4 to 26 in the original applications by stepping up their scale of pay and in any event, the denial of such a benefit would offend Article 14 of the Constitution of India and hence, prays for dismissal of these writ petitions.

5. This court paid its best attention to the rival submissions and also carefully scanned the materials placed before it.

6. It is relevant to extract Government of India orders to FR-22 (I) (a), which reads as follows:

'Removal of anomaly by stepping up of pay of senior on promotion drawing less pay than his juniors.:-

(d) The anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22 or any other rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the juniors' officers were drawing more pay in the pre- revised scale than the senior by virtue of any advance increments granted to him, provisions of this Note need not be invoked to step up the pay of the senior officer.' For invoking the said provisions, two conditions have to be fulfilled and the first is that junior as well as senior employees must be promoted and consequently they must come from the same cadre, having same scale of pay in the feeder post.

7. It is the vehement submission of the learned counsel appearing for the writ petitioners that in view of MACP scheme which came into being in the year 2009, FR 22 (I) (a) (i) has no application and since the private respondents 4 to 26 in the original applications are stagnated without any promotion, they have been rightly conferred with the benefit of pay grade of Rs.5400/- and also contended that in the absence of any challenge to the said scheme, it is not open to the private respondents to attach the said benefit conferred on them. In the considered opinion of the Court, the said submission lacks merit and substance for the reason that any action of the State has to pass the test of reasonableness and shall not offend Article 14 of the Constitution of India.

8. In state of Andhra Pradesh v. G. Sreenivasa Rao (1989) 2 SCC 290, the Hon'ble Supreme Court of India has observed as follow:

'15. 'Equal pay for equal work' does not mean that all the members of a cadre must receive the same pay packet irrespective of their seniority, source of recruitment, educational qualification and various other incidents of service. When a single running pay scale is provided in a cadre the constitutional mandate of equal pay for equal work is satisfied. Ordinarily grant of higher pay to a junior would ex facie be arbitrary but if there are justifiable grounds in doing so the seniors cannot invoke the equality doctrine. To illustrate, when pay fixation is done under valid statutory rules/executive instructions, when persons recruited from different sources are given pay protection, when promotee from lower cadre or a transferee from another cadre is given pay protection, when a senior is stopped at efficiency bar, when advance increments are given for experience/passing a test/acquiring higher qualifications or incentive for efficiency, are some of the eventualities when a junior may be drawing higher pay, than his senior, without violating the mandate of equal pay for equal work. The differentia on these grounds would be based on intelligible criteria which have rational nexus with the object sought to be achieved. . . .'

As per the above decision, ordinarily grant of higher pay to a junior would be ex-facie be arbitrary but, if there are justifiable ground in doing so, the senior cannot invoke the equality doctrine.

9. The facts of the present case would disclose that the private respondents herein got promoted on account of passing departmental tests on time, but the private respondents 4 to 26 in the original applications did not pass the said test in time and therefore, they got stagnated and admittedly, both of them hailing from a same cadre and the private respondents 4 to 26 in the original applications were given promotion as section officers (ad hoc) without any supervisory power and they have to work under the private respondents herein.

10. It is also held in the above cited decision that the differentia on these grounds would be based on intelligible criteria which has rational nexus with the object sought to be achieved and in the case on hand, the private respondents 4 to 26 did **not pass the departmental test on time and got stagnated and by granting them higher grade of pay of Rs. 5400/- the petitioners/appellants herein indirectly putting premium on their inefficiency.** It is fairly submitted by the learned counsel appearing for the private respondents that they are not interested in deprivation of the said benefit conferred on the private respondents 4 to 26 but what they pray is that the original applicants/private respondents who are in the grade pay of Rs. 4800/- are to be given the benefit of grade pay of Rs. 5400/- as given to their juniors of the private respondents 4 to 26 in the original applications.

11. The appellants herein under the guise of MACP scheme dated 19.5.2009 could with the clarification dated 9.11.2009, seeks to deprive the benefit of FR.22(1) (a) (i) to the private respondents and in the considered opinion of the court, it is unsustainable as it violates equality and it also offends Article 14 of the Constitution of India and the MACP scheme dated 19.5.2009 as well the impugned order dated 3.8.2009 do not spell out any reason the applicability of FR.22(1) (a) (i), has excluded for the persons like private respondents who are ultimately aggrieved/effected.

12. The Government of India passed series of orders issuing clarification in respect of FR.22 (1) (a) (i) and as per Clarification No.23 (d), the pay anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22 or any other rule or order regulating pay fixation of such promotion in the revised scale (emphasis supplied)

13. In the case on hand, the private respondents 4 to 26 in the original applications are admittedly juniors to the private respondents in these writ petitions and they did not qualify on time for getting their promotion and consequently got stagnated and on account of the same, they are not conferred with higher grade pay 5400/-. The Tribunal has taken into consideration of the fact that admittedly the private respondents 4 to 26 did not pass the departmental tests on time and got stagnated at the level of Senior Accountants and since they have been conferred with higher grade pay of Rs.5400/- has rightly granted the said relief in their favour. It is to be pointed out at this juncture that the private respondents 4 to 26 in the original applications have not been put to any prejudice and what the Tribunal done was, merely stepped up the Pay scale of the **original applicants to that of the private respondents 4 to 26 and it is in tune with the principle of parity and equity enshrined in Article 14 of the Constitution of India.**

[underlining supplied by us]

8. We are of the view that the reasonings given by the Madras High Court affirming A/2 order of Madras Bench of this Tribunal are squarely applicable and can be read in to the case of the applicants in these OAs. We find that the defence employed by the respondents in these O.As have also been adequately met with by the reasonings given in the afore-quoted order of the High Court of Madras.

Therefore, we are of the view that the benefit received by the applicants in Annexure A/1 order of Madras Bench of this Tribunal should be made applicable to the applicants in these three O.As also.

9. We take note that the reason for rejecting the representations of the applicants in these cases was based on the view of the respondents that 'the benefit of Hon'ble CAT Judgment passed in OA. No. 966 and 967 has been extended only to the applicants to the OA. The Tribunal's decision cannot be treated as universal and extended to similarly placed persons. The same has not been extended to any other employees in this Department.' We feel that the aforesaid intransigent view of the respondents is quite opposed to the observation of the Apex Court in *Amritlal Berry v. Collector of Central Excise - (1974) 4 SCC 714* wherein the Court said :

'We may, however, observe that when a citizen aggrieved by the action of a Government department has approached the Court and obtained a declaration of law in his favour, others in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court.'

In *Inderpal Yadav v. UOI and Ors - 1985 (2) SCC 648*, the Apex Court held:

' Those who could not come to the court need not be at a comparative disadvantage to those who rushed in here and that if they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of the Court.'

This view has been reiterated by the Apex Court in *State of Karnataka v. C. Lalitha - (2006) SCC 745* also.

10. The National Litigation Policy also eschews unnecessary litigation resorted to by the Government Departments. Once a superior court finally decides the matter or if the order of the Courts or Tribunal attains finality by the eflux of time and want of challenge, it is the duty of the administrative authorities to follow and apply the verdict in a similar situation that may arise at a later point of time. It has to be borne in mind that our Constitution envisages courts / Tribunals to form one of the pillars of government and that their decisions are to be obeyed as the interpretation of the law applicable to the case or controversy. The administrative authorities are bound to follow the court decisions that have attained finality. It shall not be the policy of the administrative authorities to force its officials to suffer the rigor of yet another litigative process which would be time consuming and impinging on the finances of both the aggrieved officials and of the government. It was submitted at the Bar that the decision of the Madras High Court in Annexure A/2 order was unsuccessfully challenged by the administrative authorities in the Apex Court. Despite the applicants in these three cases sought parity with the applicants in the Madras cases,

the respondents were obstinately unwilling to apply the law explained in Annexure A/1 and A/2 judicial orders and took the view that the law as explained in Annexure A/1 and A/2 decisions are applicable only to parties in those cases and not to other people - without even examining whether the applicants herein are similarly situated or not. This is illustrative of the bureaucratic apathy and aversion to the judicial orders unpalatable to them.

11. As pointed out above, since we find that the applicants in these cases are entitled to the same benefit as received by the applicants in the Annexure A/1 decision of the co-ordinate bench of this Tribunal at Madras which was not interfered with by the High Court and the Supreme Court of India, we are inclined to allow these O.As.

12. In the result, Annexure A/1 in these O.As are quashed and set aside. It is hereby declared that the applicants are eligible and are entitled to be granted the Grade Pay of Rs. 5400/- with effect from the date of their subordinate - the erstwhile Senior Accountant named in the O.As is granted the Grade Pay of Rs.5400/- though under the MACP Scheme, i.e. with effect from 1.9.2008 with all consequential benefits including arrears thereof. Respondents are directed to grant Grade Pay of Rs. 5400/- to the applicants with effect from the date their subordinate Shri P.M.Victor, the erstwhile Senior Accountant was granted the said Grade Pay i.e. From 1.9.2008, with all consequential benefits and arrears. Respondents shall pay the arrears within two months from the date of receipt of a copy of this common order failing which they shall pay interest at the rate applicable to the G.P.F. Deposits, from the date on which such amounts fell due, till actual payment.

13. In the circumstances of the case, the respondents shall also pay the cost of this litigation to the applicants of these three O.As.

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

Sj*

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH, ERNAKULAM

O.A.No. 180/00666/2015

O.A. No.180/00667/2015

&

O.A.No.180/00668/2015

Dated this Thursday, the 31st day of March, 2016

CORAM:

HON'BLE MR. U. SARATHCHANDRAN, JUDICIAL MEMBER

HON'BLE MR. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

1. O.A.No. 180/00666/2015

1. Varghese P.Mathew, aged 57 years,
S/o, Lae P.M. Mathew,
Asstt.Accounts Officer, O/o the Cotroller of
Communication Accounts,
Kerala Circle, Trivandrum 695033, r/a:
Paridayil House, Erumakad, P.O.
Edayaranmula, Patanamthitta 689532.
2. R.Geetha Kumari, aged 50 years, D/o G.K. Radhakrishnan,
Asst. Accounts Officer, O/o the Cotroller of
Communication Accounts,
Kerala Circle, Trivandrum 695033, r/a:
'Lalitha Krishan'Melehempanoor, Trivandrum 695001.
3. Girija Joseph, aged 52 years,D/o Damodharan,
Asstt. Accounts Officer, O/o the Cotroller of
Communication Accounts, DoT,
Kerala Circle, Trivandrum 695033, r/a:
TC 5/1905 (9), Aduppukallumkal,
Sree Krishna Lane, Kowdiar P.O. Trivandrum.
4. K Gayathreedevi, aged 57 years, D/o. S. Kumaraswami Pillai,
Asst. Accounts Officer, O/o the Cotroller of
Communication Accounts, DoT
Kerala Circle, Trivandrum 695033, r/a:
Vrindavan L-181, LIC Lane, Pattom,
Trivandrum 695 004.
5. Sudha Hari, aged 54 years, D/o Late Ananthakrishna Pillai,
Asstt. Accounts Officer, O/o the Cotroller of
Communication Accounts,
Kerala Circle, Trivandrum 695033, r/a:
'Saras' TC.36/730 (2), Samajam Lane, Perunthanni,
Trivandrum 695008.

6. P. Prasannakumari, aged 55 years, D/o Velayudha Pillai, Asst. Accounts Officer, O/o the Cotroller of Communication Accounts, Kerala Circle, Trivandrum 695033, r/a: J-95 Jyothinagar, Kesavadasapuram, Pattom P.O., Trivandrum.
7. G. Radhamony, aged 57 years, D/o Gangadharan Pillai, Asst. Accounts Officer, O/o the Cotroller of Communication Accounts, Kerala Circle, Trivandrum 695033, r/a: Uthradam, TC 6/516-2, Vattiyoorkavu P.O., Trivandrum.
8. P. Rajaram, aged 59 years S/o Kunhrama Poduval, Asst. Accounts Officer, Kerala Circle Stamp Depot, Kochi 682020.
9. Pushpa Sunny, aged 59 years D/o. V. Parthasarathy, Asst. Accounts Officer, O/o the DAP, GPO, Trivandrum 695033, r/a: PLRA -26, TC 10/1661-4, Pulimoodu Lane, Vattiyoorkavu P.O, Trivandrum 695 013.
10. V.Mohan, aged 55 years S/o Late Venketarama Sastri, Asst.Accounts Officer, DAP, Trivandrum 695033, r/a KRA 74 (A), Soman Nagar, TC 21/1042 (3), Karamana PO, Trivandrum 695 002.
11. S. Mahohara Das, aged 57 years, S/o Late P. Selvamani Asst.Accounts Officer, DAP, Trivandrum 695033, r/a 18-47 B5, Kuzhithura West, Kuzhithura P.O. Pin. 629 163.
12. A.V. Ramesh Kumar, aged 58 years, S/o. S. Anandan Pillai, Asst.Accounts Officer, O/o DAP, Trivandrum 695033, r/a 'Saurabhi' TC 6/1740 (2), Ullas Nagar, UNRA-41, Elippodu, Thirumala P.O. Trivandrum 695006.
13. A Kumar, aged 51 years S/o, V.Ananthasubramaniya Iyer, Asst. Accounts Officer, O/o DAP, Trivandrum 695033, r/a TC 36/980-2, Peruvathani, Trivandrum 695 008.
14. S. Balagopal, aged 54 years, S/o Dr. S.K.Menon, Asst.Accounts Officer, O/o DAP, Trivandrum 695033, r/a B-8, Thanal, Winners nagar, Peroorkada, Trivandrum 695005.

15. G. Chandrababu, aged 58 years, S/o Late Gopala Pillai,
Asst.Accounts Officer, O/o
DAP, Trivandrum 695033, r/a Ushus, Kamdmpazhinji P.O.
Poovar, Trivandrum 695528. Applicants in
O.A. 180/00666/2015

(Applicants by Mr. Shafik M.A., Advocate)

vs.

1. Union of India,
represented by its Secretary to Government of India,
Department of Posts, Ministry of Communications,
New Delhi 110 001.
2. The Member (Finance)
Department of Telecommunications,
Sanchar Bhavan, New Delhi.
3. The Deputy Director General,
Postal Accounts & Finance, Ministry of Communications & IT.
Dak Bhavan, New Delhi 110 001.
4. The Asst. Director General (PA-Admn)
Postal Accounts, Wing, Department of Posts,
Ministry of Communications & IT, Dak Bhavan,
New Delhi 110 001.
5. The Director of Accounts (Postal)
Office of the DAP, GPO, Complex, Trivandrum 695033.
6. The Controller of Communications Accounts,
Kerala Circle, Trivandrum 695033. b in O.A.
666/2015
(Respondents by Mr. E.N. Hari Menon, ACGSC)

2. O.A. No.180/00667/2015

1. C.K. Rajendran, aged 56 years S/o C. Kunhi Kanna Vaidyar,
Senior Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a TC 6/916-4,
'Pragathi' Padayani Road, Vattiyoorkavu P.O.,
Trivandrum 695013.
2. K. Dileep Kumar, aged 55 years, S/o V Krishnan Nair,
Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a
J-1, Pournami, Kurup's Lane, Sasthamangalam,
Trivandrum 695010.
3. N. Abdul Hakkim, aged 59 years S/o Noohu Kunju,

- Accounts Officer, O/o the Controller of Communication
Accounts, DoT Kerala Circle, Trivandrum 695033, r/a
BN 139(A), 'Firdous' Bapuji Nagar, Durga Lane,
Pongumoodu, Medical College P.O., Trivandrum 695011.
4. E.A. Sekharan Nair, aged 59 years, S/o K. Ayyapan Nair,
Assistant Accounts Officer, O/o the Controller of Communication
Accounts, DoT Kerala Circle, Trivandrum 695033, r/a
J-95, Jyothi Nagar, Kesavadasapuram, Pattam PO,
Trivandrum 695004.
 5. K.S. Usha Devi aged 57 years, D/o Late K.S.Namboothiri,
Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a
'Kunnamparambath mana', Snehapuri Road, Karamana P.O.
Trivandrum.
 6. I.Padmaja, aged 56 years, D/o Indira Bai Amma,
Accounts Officer, O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001, r/a
'Thiruvathira' Kottamkara, Chandanathope P.O. Kollam,
 7. Madhuri Rajagopal, aged 53 years, D/o K. Rajagopalan,
Accounts Officer, O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001, r/a:
Rakendu, TC 17/929-1, Vidhyadhi Raja Nagar,
Poojapura, Trivandrum.
 8. K.K.Lalitha, aged 51 years, W/o E.P. Gopinathan,
Accounts Officer, O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001,
Permanently r/a: Kunnath Meethal House, Nitumbram,
Chokli P.O. 670672.
 9. K.V.Kumar, aged 56 years, S/o K. Velappan Pillai,
Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a
Avittam, RRA-19, Ramapuram Lane, NCC road,
Ambalamukku,
Peroorkada PO, Trivandrum.
 10. Varghese Chacko, aged 53 years, S/o Chacko Chacko
Asst. Accounts Officer, O/o the DAP , GPO,
Trivandrum 695033, r/a GRA-205, T.C. 2/1623 (3)
Kottara Lane, Gowreesapattom,
Trivandrum 695004.
 11. Antony Sunny, aged 59 years, S/o C.J. Antony,
Accounts Officer, O/o the DAP , GPO,
Trivandrum 695033, r/a Pockathil, PIRA-26, T.C.
10/1661-4, Pulimoodu Lane,
Vattiyookavu, Trivandrum 695013.

12. Sobha Nandakumar, aged 56 years, D/o Late M.N. Narayana Panicker,
Accounts Officer, O/o the DAP , GPO,
Trivandrum 695033, r/a Shivam, PRA 137/B, Padayani Road
Vattiyoorkavu P.O.
Trivandrum 695013.
13. R.Satiadas, aged 56 yers, S/o. K. Ramayyan,
Accounts Officer, O/o the Postmaster General,
Central Region, Cochin 682020,
permanently resident of
Neduvilai, Malaicod, Edaicode .O. 629 152.
14. T.S. Shaji, aged 57 years, S/o T.K. Sreedharan,
Accounts Officer, O/o the Chief Postmaster General,
Kerala Circle, Trivandrum, 695033,
resident of Sreesailam VRA 52, Mannamoola,
Peroorkada, Trivandrum.
15. A.S. Muraleedharan Pillai, aged 57 years,
S/o Late P.K. Sivarama Pillai,
Asstt. Accounts Officer, O/o the DAP,
Trivandrum 695033,R/a N-9, Sreevalsam,
Jawahar Nagar, Kowdiar, Trivandrum.
16. K.T.Joseph, aged 51 years, S/o K.L. Thomas,
Accounts Officer, O/o the Controller of Communication
Accounts, Kerala Circle, Trivandrum 695033, r/a
Karikkattu Vadakkethil House, Chayoth P.O.
Nileshwar, Kasargod. Applicants in O.A.
No.667/2015
(Applicants by Mr. Shafik M.A. , Advocate)

vs.

1. Union of India,
represented by its Secretary to Government of India,
Department of Posts, Ministry of Communications,
New Delhi 110 001.
2. The Member (Finance)
Department of Telecommunications,
Sanchar Bhavan, New Delhi.
3. The Deputy Director General,
Postal Accounts & Finance, Ministry of Communications & IT.
Dak Bhavan, New Delhi 110 001.
4. The Asst. Director General (PA-Admn)
Postal Accounts, Wing, Department of Posts,

Ministry of Communications & IT, Dak Bhavan,
New Delhi 110 001.

5. The Director of Accounts (Postal)
Office of the DAP, GPO, Complex, Trivandrum 695033.
6. The Controller of Communications Accounts,
Kerala Circle, Trivandrum 695033. B
in O.A. 667/2015
(Respondents by Mr. S. Ramesh, ACGSC)
3. O.A.No.180/00668/2015
1. A. Nandakumaran, aged 63 years S/o Late, Kunjunni Nair,
Accounts Officer (Retired), O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
R/a 'Sivoham' PRA 137-B, Padayani Road,
Vattiyookavu P.O., Trivandrum 695013.
2. R.S. Narayanan, aged 60 years S/o Late J. Reghupathy Iyer
Accounts Officer (Retired), O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
r/a: TC 43/491(15), 'Aiswarya', Trimoorthy Nagar,
Vallakadavu P.O., Trivandrum 695008.
3. K.V. Sivaprasad, aged 61 years, S/o Late K. Velayudhan,
Accounts Officer (Retired), O/o the Controller of Communications Accounts,
DoT Kerala Circle, Trivandrum 695033.
residing at TC 32/2146, 'Sruthy' Maruthankuzhy
Kanjirampara P.O.
Trivandrum 695030
4. K. Radhakrishnan, aged 61 years, S/o K. Rabhava Menon,
Accounts Officer (Retired), O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001 r/a
'Renjini' TC 9/1925-2, Kochar Road, P057,
Sasthamangalam, Trivandrum 695010.
5. S.K.Selvam, aged 64 years, S/o Late C. Kumaraswamy,
Asstt. Accounts Officer (Retired), O/o the Dy. Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001 r/a
'Mini Nivas', TC. 20/1209, Meleranoor, Karamana, Trivandrum 695002.
6. K. Mohanachandra Babu, aged 62 years S/o V.Sivathanu,
Asst. Accounts Officer (Retired),
O/o the Controller of Communications Accounts,
Door Sanchar Bhavan, 4th floor, P.M.G Juntion,
Trivandrum 695 (4), Mookad Lane,
Anayar P.O. Trivandrum 695029.
7. S. Veerapudran, aged 62 years, S/o V. Sivathanu,

Accounts Officer (Retired), O/o the Controller of Communications Accounts,
DoT Kerala Circle, Trivandrum 695033.
r./a TC 76/2613 (4) Mookad Lane, Anayara PO,
Trivandrum 695029.

8. P. Madhusoodanan Nair, aged 61 years,
S/o Late S. Parameswaran Nair,
Asst. Accounts Officer (Retired),
O/o the Controller of Communications Accounts,
DoT KeralaCircle, Trivandrum695033.
R/a TC III/629 (2) MGRA-130, TKD Road, Muttada P.O.,
Trivandrum 695025.
9. P.R. Vrijangana, aged 64 years, D/o Late P.K. Raghavan,
Asst. Accounts Officer (Retired),
O/o the Controller of Communications Accounts,
DoT KeralaCircle, Trivandrum695033.
R/a: 9/979, Krishnakripa, Sasthamangalam P.O.
Trivandrum 695010.
10. P. Rajanayagam, aged 62 years,
S/o P. Perinbayayagam Asst. Accounts Officer (Retired),
O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
r/a 474, II Avenue, Nesamony Nagar,
Poonga, Nagercoil 629001.
11. K. Veeramoi, aged 65 years, S/o Late K. Krishna Iyer,
Asst. Accounts Officer, O/o the Director of Accounts (Postal)
Kerala Circle, GPO Complex, Trivandrum 695001
r/a 'Srivalsam' KERA 17, Koillamthoppe,
Karumon, Karamana PO. Trivandrum 695002.

..... Applicants
in OA 668/2015

(Applicants by Mr. Shafik M.A. Advocate)

vs.

1. Union of India,
represented by its Secretary to Government of India,
Department of Posts, Ministry of Communications,
New Delhi 110 001.
2. The Member (Finance)
Department of Telecommunications,
Sanchar Bhavan, New Delhi.
3. The Deputy Director General,
Postal Accounts & Finance, Ministry of Communications & IT.
Dak Bhavan, New Delhi 110 001.

This Application having been finally heard and reserved for orders on 26.02.2016, the Tribunal on 31.03.2016 delivered the following:

ORDER

PER: MR. U. SARATHCHANDRAN, JUDICIAL MEMBER

Since the controversy involved in these three cases and the parties therein are identically situated, a common order is being passed.

2. The applicants in these cases are Accounts Officers and Assistant Accounts

Officers in the Offices of the Controller of Communication of Accounts and the

Director of Accounts (Postal). They are aggrieved by the refusal of their requests by

the respondents to extend the benefit of Annexure A/2 order of the Madras Bench of this Tribunal, which was confirmed by Annexure A/3 judgement of the High Court of Madras for stepping up their Grade Pay to Rs. 5400/- at par with their subordinates who draw the same grade pay with effect from the date on which their subordinates were granted the same i.e. from 1.9.2008. Applicants were promoted to the post of Assistant Accounts Officers after qualifying in the examination conducted for the same. The Senior Accountant with a lower scale of pay is the feeder cadre to the post of Assistant Accounts Officer. When the posts of Senior Accountants and Assistant

Accounts Officers were merged as per the recommendations of the 6 th Central Pay

Commission, both the posts were granted the Grade Pay of Rs. 4800/- with effect

from 1.1.2006. However, the Senior Accountants who did not qualify in the

promotion test were granted the Grade Pay of Rs. 5400/- on completion of 20 years

of service and have started drawing more pay than the applicants who are still

drawing only Rs. 4800/- as their Grade Pay though they have qualified in the

promotion test and have been promoted to the present post. The Madras Bench of

this Tribunal allowed the claim of the Assistant Accounts Officers working in the office of Accountant General (A&E)'s Office, Tamil Nadu vis-a-vis their

subordinate officials- Senior Accountants who were granted a higher Grade Pay of

Rs. 5400/ on account of implementation of the MACP Scheme which was more than

the Grade Pay of Rs.4800/- still being received by the Assistant Accounts Officer.

By way of representations addressed to the respondents, applicants in these O.As.

have sought the benefit of the aforesaid decision of the Madras Bench of this Tribunal which was affirmed by Annexure A/3 judgement of the High Court of Madras. However, the respondent No.1 rejected those requests vide Annexure A/1 which reads as follows:

'No.38(2)/14/PA-Admn.1/26-106
Government of India,
Ministry of Communications & IT,
Department of Posts,
Postal Accounts Wing,
Dak Bhavan, New Delhi 110 001.

Dated 20 April, 2015.

To
All the General Managers (PAF),
All the Pr. CCA,
All the Directors of Accounts (P)

Sub: Grant of Grade Pay of Rs. 5400 - to Assistant Accounts Officer -
On the basis of Court's judgment.

Sir,

I am directed to refer on the aforesaid subject and to intimate that numerous

representations have been received in the office for grant of Grade Pay of Rs.5400/- to AAPs by extending the benefit of Hon'ble CAT judgement passed in OA No. 966 & 967 in respect of OA filed by the applicants belonging to C&AG.

The case was referred to C&AG and it has been clarified vide their letter dated 31.03.2015 that 'the benefit of Hon'ble CAT judgement passed in OA. No.966 & 967 has been extended only to the applicants to the OA. The Tribunal's decision cannot be treated as universal and extended to similarly placed persons. The same has not been extended to any other employees on this Department.'

All the representationist may be informed that their representations on the subject stand disposed off accordingly.

Yours faithfully,

sd-
(R.S. Rawat)
Assistant Director General (P-Admn)'

3. The applicants pray for relief as under:

(i) To call for the records relating to Annexure A-1 to A-5 and quash A/1 to the extent it rejects the applicant's request for extending the benefits of the grade pay of Rs.5400/- granted as per A-2 and A-3 judgments.

(ii) To declare that the applicants are entitled and eligible to be granted the grade pay of Rs. 5400/- with effect from the date of their subordinate, erstwhile senior accountants, is granted the Grade Pay of Rs.5400/-. Even if on MACP, i.e. with effect from 1.9.2008 with all consequential benefits and arrears with 12% interest.

(iii) To direct the respondents to grant the Grade Pay of Rs. 5400/- with effect from the date their subordinate, P.M. Victor, erstwhile senior Accountant, is granted, i.e. with effect from 1.9.2008 wil all consequential benefits and arrears with 12% interest.

(iv) Issue such other appropriate orders or Directions, this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case.

And

(v) To grant the costs of this Original Application.'

4. Respondents stiffly resisted the claim of the applicants in these OAs mainly contending that the post of Accountant/Senior Accountant and the Accounts Officer/Accounts Officer belonged to two different and distinct cadres and therefore, the applicants cannot be aggrieved by the higher pay drawn by the Senior Accountants who were bestowed with the financial upgradation under the MACP Scheme. They further contend that the Accountants/Senior Accountants who have spent more than twenty years of service in their cadre without any promotion were granted the ACP benefits when they completed 12 years of service in the same post and when the 6th Pay Commission introduced the scheme of MACP such officials who have completed twenty years of service were granted the second financial upgradation. Accordingly those Senior Accountants who were granted with Grade Pay of Rs. 4800/- and remained without getting promotion to the next higher post/Assistant Accounts Officer were placed in the second MACP with the next higher Grade Pay of Rs.5400/- because of the operation of the MACP Scheme which

conferred them financial upgradation with a higher Grade Pay than the Assistant Accounts Officers who belong to a different cadre and category altogether.

5. Rejoinders were filed by the applicants refuting the averments of the respondents.

6. We have heard Shri Shafik learned counsel appearing for the applicants in these O.As; Mr. S. Ramesh, learned ACGSC for the Respondents in O.A. No. 666/2015; Mr. Hari Menon, learned ACGSC for the Respondents in O.A. No. 667/2015, and Mr. K.S. Dilip, learned ACGSC for the Respondents in O.A. No. 668/2015. Applicants' counsel submitted that the case of the applicants is fully covered by the decision in the common order dated 29.10.2010 of the co-ordinate Bench of the Tribunal at Madras in O.A.No.966/2009 and 967/2009 which was upheld by the High Court of Madras vide common judgement/order dated 19.3.2014 in W.P Nos. 18611 & 18612 of 2011. It was argued by the learned counsel for the respondents that the aforementioned cases of the Madras Bench of this Tribunal relate to the Section Officers and Assistant Accounts Officers of the Accountant General's Office, Tamil Nadu at Chennai and that hence the decision in those cases cannot be made applicable in the instant cases.

7. We have carefully considered Annexure A/2 copy of the Order of Madras Bench of this Tribunal and also the A/3 Judgement of the Madras High Court in the aforesaid Writ Petitions. We note that although the nomenclature of the two categories of officials are different, the grievance and contentions of the parties in the Original Applications before the Madras Bench are all in fours with those of the parties in these three O.As including the quantum of the Grade Pay for which the applicants claim parity with their juniors in the lower cadre. Pleadings and

contentions in the Madras case are similar to those in these cases. Those pleadings have been paraphrased by the High Court in Annexure A/3 order. We feel it

worthwhile to extract the relevant portions of the Annexure A/3 order of the Madras

High Court. It reads:'3. Mr. T. Ravikumar, learned counsel appearing for the writ petitioners, contended that as per the MACP scheme dated 19.5.2009, no stepping up of pay in the pay band or grade pay would be admissible with regard to junior getting more pay than the senior on account of pay fixation under MACP scheme and insofar as persons serving the Indian Audit and Accounts sections are concerned, orders will be issued after consultations with the comptroller and Auditor General of India and therefore, it is not open to the private respondents/original applicants to base their claim on the basis of FR.22. It is further submitted by the learned counsel appearing for the petitioners that private respondents in these write petitions, already got three promotions where as the private respondents 4 to 26 in the original applications have got only two promotions and therefore they were rightly conferred with the benefits of MACP scheme by putting them in the pay grade of Rs.5400/- and as per the said scheme, it is purely a personal one and there shall be no change in the designation, classification or higher status and have no relevance to the seniority position and as such, it cannot be said that the private respondents are aggrieved persons. Moreover, MACP scheme, being the offshoot of the recommendation made by the VIth pay commission, has to be read with in consonance with CCS (Revised Pay) Rules, 2008 notwithstanding the provisions of FR-22 and on that ground also, the private respondents are not entitled to make their claim that they should be put in grade pay of Rs.5400/- as that of respondents 4 to 26 in the original applications. The learned counsel appearing for writ petitioners has also drawn the attention of this court to the additional affidavit dated 5.2.2014 filed in these writ petitions, wherein this court has sought clarification on these aspects while reiterating the stand taken by them in the original applications and therefore, prays for getting aside the impugned, common order passed in the original applications.

4. Per contra, the learned counsel appearing for the private respondents has contended that even as per their own admission, it has been stated that the private respondents 4 to 26 in the original applications were promoted as section officers (ad hoc) with no supervisory power and they continue to work under the original applicants/ respondents in these writ petitions and though a specific stand was taken that on account of non passing of the departmental examinations, they could not get promotion and consequently got stagnated, the said fact has not been specifically denied in the counter statement and therefore, stagnation has happened only on account of the above said act on the part of the respondents 4 to 26 and therefore they ought not to have been put in the pay grade of Rs. 5400/-. It is the further submission of the learned counsel appearing for the private respondents that at this distant point of time, they do not want to deprive of the benefits given to the private respondents 4 to 26 in the original application and the private respondents herein only want upgradation of their pay scale to Rs.5400/- as given to their juniors, namely respondents 4 to 26 in the original applications by stepping up their scale of pay and in any event, the denial of such a benefit would offend Article 14 of the Constitution of India and hence, prays for dismissal of these writ petitions.

5. This court paid its best attention to the rival submissions and also carefully scanned the materials placed before it.
6. It is relevant to extract Government of India orders to FR-22 (I) (a), which reads as follows:
'Removal of anomaly by stepping up of pay of senior on promotion drawing less pay than his juniors.:-
.....
(d) The anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22 or any other rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the juniors' officers were drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, provisions of this Note need not be invoked to step up the pay of the senior officer.'

For invoking the said provisions, two conditions have to be fulfilled and the first is that junior as well as senior employees must be promoted and consequently they must come from the same cadre, having same scale of pay in the feeder post.

7. It is the vehement submission of the learned counsel appearing for the writ petitioners that in view of MACP scheme which came into being in the year 2009, FR 22 (I) (a) (i) has no application and since the private respondents 4 to 26 in the original applications are stagnated without any promotion, they have been rightly conferred with the benefit of pay grade of Rs.5400/- and also contended that in the absence of any challenge to the said scheme, it is not open to the private respondents to attach the said benefit conferred on them. In the considered opinion of the Court, the said submission lacks merit and substance for the reason that any action of the State has to pass the test of reasonableness and shall not offend Article 14 of the Constitution of India.

8. In state of Andhra Pradesh v. G. Sreenivasa Rao (1989) 2 SCC 290, the Hon'ble Supreme Court of India has observed as follow:

'15. 'Equal pay for equal work' does not mean that all the members of a cadre must receive the same pay packet irrespective of their seniority, source of recruitment, educational qualification and various other incidents of service. When a single running pay scale is provided in a cadre the constitutional mandate of equal pay for equal work is satisfied. Ordinarily grant of higher pay to a junior would ex facie be arbitrary but if there are justifiable grounds in doing so the seniors cannot invoke the equality doctrine. To illustrate, when pay fixation is done under valid statutory rules/executive instructions, when persons recruited from different sources are given pay protection, when promotee from lower cadre or a transferee from another cadre is given pay protection, when a senior is stopped at efficiency bar, when advance increments are given for experience/passing a test/acquiring higher qualifications or incentive for efficiency, are some of the eventualities when a junior may be drawing higher pay, than his senior, without violating the mandate of equal pay for equal work. The differentia on these grounds would be based on intelligible criteria which have rational nexus with the object sought to be

achieved. . . .'

As per the above decision, ordinarily grant of higher pay to a junior would be ex-facie be arbitrary but, if there are justifiable ground in doing so, the senior cannot invoke the equality doctrine.

9. The facts of the present case would disclose that the private respondents herein got promoted on account of passing departmental tests on time, but the private respondents 4 to 26 in the original applications did not pass the said test in time and therefore, they got stagnated and admittedly, both of them hailing from a same cadre and the private respondents 4 to 26 in the original applications were given promotion as section officers (ad hoc) without any supervisory power and they have to work under the private respondents herein.

10. It is also held in the above cited decision that the differentia on these grounds would be based on intelligible criteria which has rational nexus with the object sought to be achieved and in the case on hand, the private respondents 4 to 26 did not pass the departmental test on time and got stagnated and by granting them higher grade of pay of Rs. 5400/- the petitioners/appellants herein indirectly putting premium on their inefficiency. It is fairly submitted by the learned counsel appearing for the private respondents that there are not interested in deprivation of the said benefit conferred on the private respondents 4 to 26 but what they pray is that the original applicants/private respondents who are in the grade pay of Rs. 4500/- are to be given the benefit of grade pay of Rs. 5400/- as given to their juniors of the private respondents 4 to 26 in the original applications.

11. The appellants herein under the guise of MACP scheme dated 19.5.2009 could with the clarification dated 9.11.2009, seeks to deprive the benefit of FR.22(1) (a) (i) to the private respondents and in the considered opinion of the court, it is unsustainable as it violates equality and it also offends Article 14 of the Constitution of India and the MACP scheme dated 19.5.2009 as well the impugned order dated 3.8.2009 do not spell out any reason the applicability of FR.22(1) (a) (i), has excluded for the persons like private respondents who are ultimately aggrieved/affected.

12. The Government of India passed series of orders issuing clarification in respect of FR.22 (1) (a) (i) and as per Clarification No.23 (d), the pay anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22 or any other rule or order regulating pay fixation of such promotion in the revised scale (emphasis supplied)

13. In the case on hand, the private respondents 4 to 26 in the original applications are admittedly juniors to the private respondents in these writ petitions and they did not qualify on time for getting their promotion and consequently got stagnated and on account of the same, they are not conferred with higher grade pay 5400/-. The Tribunal has taken into consideration of the fact that admittedly the private respondents 4 to 26 did not pass the departmental tests on time and got stagnated at the level of Senior Accountants and since they have been conferred with higher grade pay of Rs.5400/- has rightly granted the said relief in their favour. It is to be pointed out at this juncture that the private respondents 4 to 26 in the original applications have not been put to any

prejudice and what the Tribunal done was, merely stepped up the Pay scale of the original applicants to that of the private respondents 4 to 26 and it is in tune with the principle of parity and equity enshrined in Article 14 of the Constitution of India.

[underlining supplied by us]

8. We are of the view that the reasonings given by the Madras High Court affirming A/2 order of Madras Bench of this Tribunal are squarely applicable and can be read in to the case of the applicants in these OAs. We find that the defence employed by the respondents in these O.As have also been adequately met with by the reasonings given in the afore-quoted order of the High Court of Madras.

Therefore, we are of the view that the benefit received by the applicants in Annexure A/1 order of Madras Bench of this Tribunal should be made applicable to the applicants in these three O.As also.

9. We take note that the reason for rejecting the representations of the applicants in these cases was based on the view of the respondents that 'the benefit of Hon'ble CAT Judgment passed in OA. No. 966 and 967 has been extended only to the applicants to the OA. The Tribunal's decision cannot be treated as universal and extended to similarly placed persons. The same has not been extended to any other employees in this Department.' We feel that the aforesaid intransigent view of the respondents is quite opposed to the observation of the Apex Court in *Amritlal Berry v. Collector of Central Excise - (1974) 4 SCC 714* wherein the Court said :

'We may, however, observe that when a citizen aggrieved by the action of a Government department has approached the Court and obtained a declaration of law in his favour, others in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court.'

In *Inderpal Yadav v. UOI and Ors - 1985 (2) SCC 648*, the Apex Court held:

'Those who could not come to the court need not be at a comparative disadvantage to those who rushed in here and that if they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of the Court.'

This view has been reiterated by the Apex Court in *State of Karnataka v. C. Lalitha* - (2006) SCC 745 also.

10. The National Litigation Policy also eschews unnecessary litigation resorted to by the Government Departments. Once a superior court finally decides the matter or if the order of the Courts or Tribunal attains finality by the efflux of time and want of challenge, it is the duty of the administrative authorities to follow and apply the verdict in a similar situation that may arise at a later point of time. It has to be borne in mind that our Constitution envisages courts / Tribunals to form one of the pillars of government and that their decisions are to be obeyed as the interpretation of the law applicable to the case or controversy. The administrative authorities are bound to follow the court decisions that have attained finality. It shall not be the policy of the administrative authorities to force its officials to suffer the rigour of yet another litigative process which would be time consuming and impinging on the finances of both the aggrieved officials and of the government. It was submitted at the Bar that the decision of the Madras High Court in Annexure A/2 order was unsuccessfully challenged by the administrative authorities in the Apex Court. Despite the applicants in these three cases sought parity with the applicants in the Madras cases, the respondents were obstinately unwilling to apply the law explained in Annexure A/1 and A/2 judicial orders and took the view that the law as explained in Annexure

A/1 and A/2 decisions are applicable only to parties in those cases and not to other people - without even examining whether the applicants herein are similarly situated or not. This is illustrative of the bureaucratic apathy and aversion to the judicial orders unpalatable to them.¹¹ As pointed out above, since we find that the applicants in these cases are entitled to the same benefit as received by the applicants in the Annexure A/1 decision of the co-ordinate bench of this Tribunal at Madras which was not interfered with by the High Court and the Supreme Court of India, we are inclined to allow these O.As.

12. In the result, Annexure A/1 in these O.As are quashed and set aside. It is hereby declared that the applicants are eligible and are entitled to be granted the Grade Pay of Rs. 5400/- with effect from the date of their subordinate - the erstwhile Senior Accountant named in the O.As is granted the Grade Pay of Rs.5400/- though under the MACP Scheme, i.e. with effect from 1.9.2008 with all consequential benefits including arrears thereof. Respondents are directed to grant Grade Pay of

Rs. 5400/- to the applicants with effect from the date their subordinate Shri P.M. Victor, the erstwhile Senior Accountant was granted the said Grade Pay i.e. From 1.9.2008, with all consequential benefits and arrears. Respondents shall pay the arrears within two months from the date of receipt of a copy of this common order failing which they shall pay interest at the rate applicable to the G.P.F. Deposits, from the date on which such amounts fell due, till actual payment.

13. In the circumstances of the case, the respondents shall also pay the cost of this litigation to the applicants of these three O.As.

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

Sj*