

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

+ **WRIT PETITION (CIVIL) No. 11826/2016**

% **Reserved on:** 20<sup>th</sup> December, 2016  
**Date of Decision:** 3<sup>rd</sup> February, 2017

UNION OF INDIA AND OTHERS ....Petitioners  
Through Mr. Devesh Singh, ASC & Mr. Vinod Kumar  
Bhati, Advocate for GNCTD.

Versus

MANJU VASHISTHA & OTHERS .....Respondents  
Through Nemo.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJIV KHANNA**  
**HON'BLE MR. JUSTICE CHANDER SHEKHAR**

**SANJIV KHANNA, J.**

The Union of India, the Commissioner of Police, and four others in this writ petition impugn the order dated 23<sup>rd</sup> May, 2016 passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) in OA No. 1288/2014 holding that the respondents, 17 in number, were entitled to grant of benefit of third financial upgradation under the Modified Assured Career Progression Scheme (MACP Scheme, for short).

2. The respondents were appointed as Head Constable (Ministerial) in the Delhi Police on different dates in 1984, 1985 and 1986. They were promoted as Assistant Sub-Inspector (Ministerial) again on different dates. After the introduction of the MACP Scheme, the respondents were granted second financial upgradation under the said scheme with effect from 1<sup>st</sup> September 2008. Grant of second financial upgradation is not challenged and disputed. The respondents were thereafter granted the third financial

upgradation once they had completed 20 years of regular service from the date of first promotion, though they had not completed 30 years of service from the date of direct entry. Grant of the third financial upgradation was withdrawn by the petitioners vide order dated 10<sup>th</sup> March, 2014. The respondents challenged this withdrawal in OA No. 1288/2014, which as recorded above, has been allowed by the impugned order.

3. The petitioners dispute the respondents' entitlement to the third financial upgradation under the MACP Scheme contending that the third financial upgradation could only be granted after completion of 30 years of overall service in the regular grade from the date of initial appointment and not after 20 years of service from the date of first promotion as was the case and contention of the respondents. We proceed to examine the said argument.

4. The MACP Scheme was introduced for the Central Government Civilian Employees, except organized Group A services vide Office Memorandum No. 35034/3/2008-Estt.(D) dated 19<sup>th</sup> May, 2009. The Scheme was operational with effect from 1<sup>st</sup> September, 2008. Paragraphs 1, 9, 22, and the illustrations given in paragraph 28 of the MACP Scheme are relevant and are, therefore, reproduced below:-

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

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9. 'Regular service' for the purposes of the MACPS shall commence from the date of joining of a post in direct entry grade on a regular basis either on direct recruitment basis or on

absorption/re-employment basis. Service rendered on adhoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning. However, past continuous regular service in another Government Department in a post carrying same grade pay prior to regular appointment in a new Department, without a break, shall also be counted towards qualifying regular service for the purposes of MACPS only (and not for the regular promotions). However, benefits under the MACPS in such cases shall not be considered till the satisfactory completion of the probation period in the new post.

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**22.** If Group "A" Government employee, who was not covered under the ACP Scheme has now become entitled to say third financial upgradation directly, having completed 30 year's regular service, his pay shall be fixed successively in next three immediate higher grade pays in the hierarchy of revised pay-bands and grade pays allowing the benefit of 3% pay fixation at every stage. Pay of persons becoming eligible for second financial upgradation may also be fixed accordingly.

**28. Illustrations**

**A** (i) If a Government servant (LDC) in PB-1 in the Grade Pay of Rs.1900 gets his first regular promotion (UDC) in the PB-1 in the Grade Pay of Rs.2400 on completion of 8 years of service and then continues in the same Grade Pay for further 10 years without any promotion then he would be eligible for 2<sup>nd</sup> financial upgradation under the MACPS in the PB-1 in the Grade Pay of Rs.2800 after completion of 18 years (8+10 years).

(ii) In case he does not get any promotion thereafter, then he would get 3<sup>rd</sup> financial upgradation in the PB-II in Grade Pay of Rs.4200

on completion of further 10 years of service i.e. after 28 years (8+10+10).

**(iii)** However, if he gets 2<sup>nd</sup> promotion after 5 years of further service in the pay PB-II in the Grade Pay of Rs.4200 (Asstt. Grade/Grade "C") i.e. on completion of 23 years (8+10+5years) then he would get 3<sup>rd</sup> financial upgradation after completion of 30 years i.e. 10 years after the 2<sup>nd</sup> ACP in the PB-II in the Grade Pay of Rs.4600.

In the above scenario, the pay shall be raised by 3% of the total pay in the Pay Band and Grade Pay drawn before such upgradation. There shall, however, be no further fixation of pay at the time of regular promotion if it is in the same Grade Pay or in the higher Grade Pay. Only the difference of grade pay would be admissible at the time of promotions.

**B.** If a Government servant (LDC) in PB-I in the Grade Pay of Rs.1900 is granted 1<sup>st</sup> financial upgradation under the MACPS on completion of 10 years of service in the PB-I in the Grade Pay of Rs.2000 and 5 years later he gets 1<sup>st</sup> regular promotion (UDC) in PB-I in the Grade Pay of Rs.2400, the 2<sup>nd</sup> financial upgradation under MACPS (in the next Grade Pay w.r.t. Grade Pay held by Government servant) will be granted on completion of 20 years of service in PB-I in the Grade Pay of Rs.2800. On completion of 30 years of service, he will get 3<sup>rd</sup> ACP in the Grade Pay of Rs. 4200. However, if two promotions are earned before completion of 20 years, only 3<sup>rd</sup> financial upgradation would be admissible on completion of 10 years of service in Grade Pay from the date 2<sup>nd</sup> promotion or at 30<sup>th</sup> year of service, whichever is earlier.

**C.** If a Government servant has been granted either two regular promotions or 2<sup>nd</sup> financial upgradation under the ACP Scheme of August, 1999 after completion of 24 years of

regular service then only 3<sup>rd</sup> financial upgradation would be admissible to him under the MACPS on completion of 30 years of service provided that he has not earned third promotion in the hierarchy.”

Paragraph 1 of the MACP envisages and stipulates the terms and conditions for grant for financial upgradations. The first sentence/stipulation refers to the period post the date of direct entry into the grade. On completion of 10, 20 and 30 years of service, the first, second and third financial upgradations are granted. Financial upgradations are admissible when an employee has not earned any promotion during the specified period. Invariably or in most cases, government employees do earn one or two promotions during their tenure of service. The second sentence of paragraph 1 envisages grant of benefit of financial upgradation when an employee has spent 10 years continuously in the same grade pay. This would apply to cases where the employee has earned first or the second promotion or upgradation under the MACP Scheme in his service career and has spent 10 years continuously in the same grade pay.

5. The petitioners accept that financial upgradation is to be granted whenever an employee has spent 10 years after promotion/upgradation in the same grade pay, albeit, the contention of the petitioners is that if an employee has spent another 10 years i.e. 20 continuous years on the promotional post, he would not be entitled to grant of the third financial upgradation, till he has completed 30 years counted from the date of direct entry into the grade.

6. The argument raised by the petitioners overlooks and negates paragraph 1 of the MACP Scheme quoted above. The paragraph postulates grant of financial upgradation in 2 different set of circumstances and situations, as noticed above. The first situation would be applicable in case

the person has not earned any promotion whatsoever, and the second situation relates to cases where a person has earned either first or second promotion and has continued to remain in the same grade pay for the 10 or as the case may be for 20 years. The two situations are independent. It would be wrong to read the requirement that the employee should have completed 30 years of service from the direct entry for being entitled to grant of the third financial upgradation, even if he has spent 10 years in the same grade pay after the last financial upgradation/promotion. The second sentence of paragraph 1 in the plain language states that financial upgradation will be admissible whenever an employee has spent 10 years continuously in the same grade pay. It does not state that the employee will not be entitled to second or third financial upgradation even if he has spent 10 years in the grade pay if he has not completed 20 or 30 years of service from the date of initial entry. The date of direct entry is immaterial for the second sentence of paragraph 1, and the period of 10 years is to be counted from the date of promotion or upgradation in the next grade pay.

7. Paragraph 9 of the MACP Scheme quoted above states that the term 'regular service' would include 'continuous regular service' in another Government department in a post carrying the same grade pay prior to regular appointment in the new department. This is indicative that the grade pay being paid to an employee may be the relevant consideration. The date of direct entry may not be relevant in a given case. Paragraph 22 of the MACP Scheme stipulates that where an employee was not covered by the ACP Scheme and has completed 30 years of regular service, his pay shall be fixed by giving benefit of next three higher grade pays in the hierarchy of the revised pay bands. In other words, he would not be given the first or the second, but the third financial upgradation. The same is the

position where an employee has completed 20 years of service, but not 30 years of service from the date of initial joining and is entitled to benefit of the MACP Scheme. Such employees are directly granted second financial upgradation.

8. The illustrations<sup>1</sup> given in Paragraph 28 of the MACP Scheme also support this view. As per Illustration A, an employee, who has earned one or two promotions, would be entitled to financial upgradation after he has spent 10 years without any promotion thereafter. Another financial upgradation would be granted after the employee has spent 20 years on the first promotional post in the same grade pay. The last sentence in Illustration B is significant for it relates to a case wherein an employee has earned two promotions before completion of 20 years. Such employee would be entitled to third financial upgradation on completion of 10 years

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<sup>1</sup> We accept and record that the examples to the illustrations given in paragraph/clause 28 do reflect some variance with the view expressed by the Division Bench of this Court in some decisions to which one of us (Sanjiv Khanna, J.) was also a Member, holding that MACP Scheme requires reference only to Part A, Section 1 of the First Schedule of the Central Civil Services (Revised Pay) Rules, 2008 and not to the promotional pay scale. The examples would, however, reflect that when a person is granted financial upgradation and then promoted, the financial upgradation granted earlier get subsumed in the promotion and is not counted for the purpose of MACP Scheme. Further, upon promotion, the next financial upgradation is not with reference to the scale or grade pay as applicable on direct entry, but with reference to the next grade pay in the hierarchy as per Part A, Section 1 of the First Schedule of the aforesaid Rules with reference to the pay scale of the promotional post. In other words, if the incumbent is granted financial upgradation and then granted promotion and the pay scale of the promotional post is higher than the scale provided in Section 1, Part A to the First Schedule of the Rules, the employee would be entitled to next financial upgradation on completion of 10 years of service in the said grade to the next higher grade pay with reference to the pay scale applicable to the promotional post. In this case, this issue need not be examined. If required and necessary, the issue will be examined in an appropriate case and may, if required, be referred to a Larger Bench.

of service in the grade pay from the date of second promotion or 30 years of service, whichever is earlier. Thus, the stipulations relating to 10, 20 and 30 years of regular service and 10 years in the grade pay operate independently and in alternative. Whenever any of the two alternative conditions are satisfied, the benefit under the MACP Scheme should be available. Conditions and stipulations of one cannot be read into another.

9. The aforesaid position has been accepted by the DoP&T in their clarification issued by way of Frequently Asked Questions (FAQs) on the MACP Scheme dated 1<sup>st</sup> April, 2011 wherein in response to question Nos. 2 and 27, it has been clarified:-

"2. From which date the MACPS is effective?"

The MACPS is effective w.e.f. 01.09.2008 or on completion of 10, 20 & 30 years of continuous regular service, whichever is later. Financial upgradation will also be admissible whenever a person has spent 10 years continuously in the same grade pay. (Para 9 of OM dated 19/5/2009)

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27. In a hypothetical situation cadre hierarchy was as follows: Rs.5000-8000 (revised GP 4200) Rs.5500-9000 (revised GP 4200) Rs.6500-10500 (revised GP 4600) Rs.7450-11500 (revised GP 4600) Rs.10000-15200 (revised GP 6600)

(i) What would be the 1<sup>st</sup> financial upgradation under the ACPS for a Government employee recruited in pre-revised pay scale of Rs.5000- 8000, who has completed his 12 years of regular service on 12.04.2007 (between 1.1.2006 and 31.8.2008);

In terms of clarification given on point of doubt no.3 issued vide DOPT's O.M. No.35034/3/2008-Estt.(D) dated 9.9.2010, the benefits of ACPS would be applicable in the new pay structure



adopted w.e.f. 1.1.2006 in the promotional hierarchy. (i): Since the pre-revised pay scales Rs.5000-8000 & Rs.5500-9000 have been merged and placed in PB-2 with grade pay of Rs.4200, 1st financial upgradation would be allowed in the grade pays of Rs.4600, subject to fulfillment of promotional norms as stipulated in condition no.6 of Annexure-I ACPS dated 9.8.1999, in terms of clarification given on point of doubt no.1 of ACPS dated 10.02.2000.

(ii) What would be 2nd financial upgradation for employee recruited in 5000-8000, who has completed 24 years of regular service on 12.04.2007 (between 1.1.2006 and 31.8.2008)

Since the pre-revised pay scales Rs.6500- 10500 & Rs.7450-11500 have been merged and placed in PB-2 with grade pay of Rs.4600, 2nd financial upgradation would be allowed in the grade pay of Rs.6600, subject to fulfillment of promotional norms (after framing of RRs post merger) as stipulated in condition no.6 of Annexure-I ACPS dated 9.8.1999, in terms of clarification given on point of doubt no.1 of ACPS dated 10.02.2000.

(iii) If a Government servant recruited in the pre-revised pay scale of Rs.5000- 8000 has been promoted in the promotional hierarchy in the pre-revised pay scale of Rs.5500-9000 prior to 1.1.2006 (and he has put in 14 years of regular service) then would there be any claim for financial upgradation under ACPS

(iii): The pre-revised pay scales Rs.5000- 8000 & Rs.5500-9000 have been merged and placed in PB-2 with grade pays of Rs.4200 w.e.f. 1.1.2006. Hence, the promotion would be ignored as he has completed his 12 years of regular service and the benefit of 1st ACP would accordingly be allowed in the promotional hierarchy i.e. in the grade pay of Rs.4600 w.e.f. 01.01.2006.

(iv) If the above Government servant had put in 22 years as on 31.08.2008, then what would be the entitlement in MACP

(iv): As given above, the 1<sup>st</sup> ACP would be in PB-2 grade pay of Rs.4600 after ignoring the previous promotion. Thereafter, since employee has completed more than 20 years of regular service on 01.09.2008, he would be entitled for 2<sup>nd</sup> financial upgradation under the MACPS in the immediate next higher grade pay of Rs.4800 in PB-2 subject to fulfillment of condition as stipulated in para 17 of Annexure-I of MACPS dated 19.05.2009. "

Answer to question No. 2 states that financial upgradation can be granted in the two different set of circumstances. Firstly, on completion of 10, 20 and 30 years of continuous regular service, and secondly, whenever a person has spent 10 years of continuous service in the same grade pay. Question No. 27 refers to hypothetical situations and response to sub-question (iv) elucidates that where an employee has spent 22 years of service, he would be entitled to second financial upgradation under the MACP Scheme as he has completed more than 20 years of service.

10. The petitioners have also referred to the clarification given by the Department of Personnel and Training (DoP&T) interpreting the said Scheme. The said opinion, for the sake of clarity, is reproduced below:-

“2. The issue relates to grant of third financial upgradation under MACP Scheme to officials of Delhi Police who have completed 20 years of service after earning first promotion. Specific service details of the officials concerned may be perused at p. 1-2/cor.

3. The basic concept of MACP Scheme is to provide 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> financial upgradations to an employee in consideration of completion of 10/20/30 years of regular service in the same

scale/Grade Pay respectively. Regular service for grant of benefits commence from the direct entry grade. The Scheme also provides for grant of financial upgradation whenever a person has spent 10 years continuously in the same grade pay.

4. Even though the illustrations No. (i), (ii) and (iii) of para 28 of the Scheme suggest that while 2<sup>nd</sup> MACP could be given after overall 18 years and the 3<sup>rd</sup> one after overall 28 years, the fact remains that in both the cases the crucial 2<sup>nd</sup> and 3<sup>rd</sup> MACPS is being given only after the mandatory 10 years residency for the 2<sup>nd</sup> and 3<sup>rd</sup> MACP respectively. Thus, the 3<sup>rd</sup> MACP is intended to be given based on either 10 years from the 2<sup>nd</sup> MACP/Promotion or 30 years of the overall service. Either of these two conditions needs to be fulfilled. In this case, neither of these is fulfilled. The 2<sup>nd</sup> MACP is rightly given on 1.9.2008-the date of effect of the MACPS itself. Now either 10 years from 01.09.2008 or overall 30 years service will need to be fulfilled for grant of the 3<sup>rd</sup> MACP. Hence, the proposal of the referring Department is not found to be covered within the parameters of the MACP Scheme.

5. In view of the above, it may be clarified that the proposal for grant of third financial upgradation under MACP Scheme to employees who have completed 20 years of service after earning first promotion is not in consonance with the basic concept of the MACP Scheme.”

Paragraph 4 of the aforesaid opinion rightly breaks up paragraph 1 of the MACP Scheme. Paragraph 1 of the MACP Scheme states that three financial upgradations shall be counted from the direct entry grade and would be granted on completion of 10, 20 and 30 years of service. It does not specifically stipulate or state that the 10, 20 or 30 years service must be in the same scale/grade pay, as this is not a mandatory or compulsory

condition. The second sentence of paragraph 1 of the MACP Scheme specifically states so. This is also apparent from paragraph 3 of the DoP&T clarification quoted above. The last sentence of paragraph 3, rightly uses the word “**also**” (emphasis supplied), for the MACP Scheme additionally stipulates grant of financial upgradation whenever a person has spent 10 years of continuous service in the same grade pay. Thus, the use of the word ‘**also**’ is significant for it means that the Government employee would be entitled to grant of financial upgradations if he/she has spent 10 years of continuous service in the same grade pay.

11. The error or misunderstanding in the DoP&T clarification relied by the petitioners is apparent in the latter portion of paragraph 4 for firstly, it does not notice the correct facts and secondly it is contradictory and has reached an erroneous and wrong conclusion. The factum that the respondents were appointed in 1984, 1985 and 1986 and had been promoted once and had spent more than 20 years of service at the promotional post went unnoticed. The respondents were entitled to first financial upgradation after completing 10 years of service in the promotional post under the MACP Scheme. However, as the period of 10 years had ended prior to 1<sup>st</sup> September, 2008 and period of 20 years at the promotional post was not complete, benefit of the second financial upgradation was given with effect from 1<sup>st</sup> September, 2008. The benefit of the third financial upgradation would be available to the respondents after they had completed 20 years in the same grade pay at the promotional post or 30 years of overall service. Either of the two conditions were required to be fulfilled. The DoP&T has wrongly interpreted the MACP Scheme and observed that the benefit of the third MACP would be available only after the respondents have completed 10 years in the grade

pay granted to them as a result of second MACP on 1<sup>st</sup> September, 2008. The petitioners and DoP&T have forgotten and failed to notice that the respondents had more than 10 years of service but less than 20 years of service in the first promotional post, i.e. the grade pay, when the second MACP benefit was granted to them effective from the date when the MACP Scheme was enforced, i.e., 1<sup>st</sup> September, 2008. Grant of the said benefit did not obliterate and erase the period of service beyond 10 years in the grade pay of the promotional post. The said period did not get exhausted or subsumed when the second MACP benefit was granted. The balance period beyond the first 10 years in the same grade pay would be counted and included along with the service rendered after 1<sup>st</sup> September, 2008. When computed so, after the respondents complete 20 years of service, they would be entitled to grant of the third MACP benefit. Thus, we have no hesitation in holding that the DoP&T's clarification in paragraph 5 is erroneous and wrong.

12. If the contention of the petitioners is to be accepted, it will lead to absurdity. An employee, who has completed 20 years of service in the same grade pay would be entitled to two financial upgradations and an employee who has completed 30 years of service in the same grade pay would be entitled to third financial upgradation. However, an employee who has completed 19 or 29 years of service or for that matter anything more than 10 and less than 20 or more than 20 and less than 30 years, would forego the excess period beyond 10 and 20 years which would become zero and would be treated as nil. Thus, an employee, who falls in this category (indeed most employees would fall in this category) would be at a disadvantage. This interpretation as put forth by the petitioners would be highly discriminatory and disadvantageous for those employees who

were just short of 20 or 30 years of service, viz. those who had just completed 20 or 30 years of service. Apparent discrepancy and discrimination would result for in some cases more than 9 years of experience would get obliterated, whereas in others experience of few days or few months would not be counted. The erroneous interpretation given by the petitioners would result in clubbing and equating employees with varying service between 1 day, to 9 years and 364 days as alike and in one category, which in a scheme based upon length of service in the particular grade pay would be a contradiction and an incongruity and thus unacceptable.

13. Lest there be any confusion, we would like to explain our reasoning by giving an example to bring forth the incongruity and difficulties in the argument of the petitioners. Taking the example of two employees, who were appointed four years apart in 1988 and 1992 respectively, and had earned the first promotion after exactly 6 years from their date of joining, we would refer to the following table:-

Particulars of Employees	Year of Appointment	Year of grant of 1 <sup>st</sup> promotion  (6 years post appointment)	Year of completion of 10 years on same Grade Pay	Grant of second financial upgradation under MACP Scheme	Grant of 3 <sup>rd</sup> Financial upgradation as per the Tribunal, i.e. on completing 20 years on the same Grade Pay	Grant of 3 <sup>rd</sup> Financial upgradation as contended by petitioners
Employee A	1988	1994	2004	1.9.2008	2014	2018 on completion of 10 years after 1.09.2008; or in alternative when the employee has completed 30 years of service
Employee B	1992	1998	2008	1.9.2008	2018	2018 on completion of 10 years after 1.09.2008; or in alternative in 2022, when the employee has

						completed 30 years of service
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We have, in the aforesaid example, assumed that none of the employees were granted financial upgradation under the ACP Scheme after 12 or 24 years from the date of initial joining. The two employees had earned the second financial upgradation on the same day, i.e., 1<sup>st</sup> September, 2008, and grant of third financial upgradation was the *lis/dispute*. As per the petitioners, the two employees appointed four years apart and having been granted second financial upgradation under the MACP Scheme on 1<sup>st</sup> September, 2008, would be entitled to the third financial upgradation in case they do not earn any more promotion after 10 years i.e. on 1<sup>st</sup> September, 2018, or 30 years after date of initial joining, whichever is earlier. The respondents on the other hand contend that employees ‘A’ and ‘B’, would be entitled to the grant of third financial upgradation on completion of 6 years and 10 years of service respectively, so as to complete the period of 20 years of service in the same grade pay which was granted on first promotion. The stand of the respondents has the effect of taking into consideration the years of service beyond the period of 10 years, which were not accounted for and subsumed when the second financial upgradation was granted. The stand of the petitioners, on the other hand, has the effect of nullifying the extra years of service rendered beyond 10 years. The period of 30 years of service remains constant in the two cases and would pose no difficulty. We are concerned and examining whether the respondents were entitled to third financial upgradation under the second alternative, i.e. 10 years of service in the same grade of pay. If the argument of the petitioners is to be accepted,

grant of benefit under the second alternative/situation of completion of 10 years on the same grade pay has the effect of equating unequals as equals and causes prejudice to those who had rendered longer period of service before grant of the second financial upgradation, for the period beyond 10 years is nullified and treated as zero. As is apparent in the table recorded above, Employees A and B would be granted third financial upgradation in 2018, thus meaning that employees A and B, appointed and promoted 4 years apart would both be entitled to grant of third financial upgradation in the same year, despite employee A having rendered an additional 4 years of service in the same grade pay in the promotional post.

14. The peculiar situation which has arisen in the present case would not have arisen if the MACP Scheme had been in operation when the respondents were inducted into service.. Such abnormal situation may also arise because the ACP Scheme envisages two financial upgradation after 12 years and 24 years of service, whereas MACP Scheme envisages grant of three financial upgradation after 10, 20 and 30 years of service or 10 years of service in the same grade pay. It would be better or more logical to ensure that all employees are treated equally for grant of benefit of second or third financial upgradation under the second situation by not obliterating or discounting the period of service beyond 10 years or 20 years while granting benefit under the MACP Scheme. This would ensure uniformity and alike treatment to all employees.

15. At this stage we note that the view we have taken also finds support in paragraph 15 of the office memorandum dated 9<sup>th</sup> August, 1999 by which Assured Career Promotion Scheme was introduced. The said Scheme postulated two financial upgradations on completion of 12 and 24 years of service respectively. Paragraph 15 of the ACP Scheme reads:-



"15. Subject to Condition No. 4 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme."

The aforesaid paragraph postulated that employees who had already been in regular service for 12 years or more but had not completed 24 years at the same post would immediately be granted first financial upgradation under ACP Scheme, with the surplus years being counted towards eligibility for grant of second financial upgradation on the completion of 24 years of regular service and would thus, not have to wait for an additional 12 years for the same. Thus for an employee who had completed 18 years of service and been granted first financial upgradation on the coming into effect of the ACP Scheme, he would be granted the second financial upgradation after 6 years,(12+6+6) on completion of 24 years in service and not after 12 years from grant of first financial upgradation.

16. For the aforesaid reasoning, we do not find any merit in the present writ petition and the same is dismissed. There will be no order as to costs.

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**(SANJIV KHANNA)**  
**JUDGE**

-sd-

**(CHANDER SHEKHAR)**  
**JUDGE**

**FEBRUARY 3, 2017**  
**VKR**