



2025:DHC:148-DB



\$~36 to 46

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

Date of decision: 09.01.2025

(36)+ W.P.(C) 4703/2021

MUKESH SINGH RAJPUT

.....Petitioner

Through: **Mr.P.Sureshan, Adv.**

versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Mr.Farman Ali, Adv. with AC
G.S.Rathore, Insp., Yespal,,
CISF.**

(37)+ W.P.(C) 4721/2021

JAI PRAKASH

.....Petitioner

Through: **Mr.P.Sureshan, Adv.**

versus

**UNION OF INDIA THR. SECRETARY MINISTRY OF
HOME & ORS.**

.....Respondents

Through: **Mr.Gigi C.George, Mr.Sunil
Kumar, Advs., for UOI.
Mr.Raj Kumar, AC/CISF,
Mr.Devenda, SI/CISF, Mr.Amit
Kumar, SI/CISF, Mr.Rahul
Sinha, SI/CISF.**

(38)+ W.P.(C) 4751/2021

BHUPINDER PRASAD YADAV

.....Petitioner

Through: **Mr.P.Sureshan, Adv.**

versus

**UNION OF INDIA THROUGH SECRETARY MINISTRY OF
HOME & ORS.**

.....Respondents

Through: **Mr.Neeraj, SPC, UOI with
Mr.Vedansh Anand, GP with
Mr.Soumyadip Chakraborty,
Mr.Sachin Saraswat, Advs.
Mr.S.K.Misra, Astt. Commd.,
SI Amit Kumar, SI Devendra
Pralhad, Constable Palve**

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W.P.(C) 4703/2021 and connected matters

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Nilesh, CISF, UOI.

(39)+ W.P.(C) 4758/2021

G.V S NARAYANA AND OTHERS

.....Petitioner

Through: Mr.P.Sureshan, Adv.

versus

**UNION OF INDIA THROUGH SECRETARY MINISTRY OF
HOME & ORS.**

.....Respondents

Through: Mr.Virender Pratap Singh
Charak, Ms.Shubhra Parashar,
Mr.P.P.Singh, Advs. for UOI.

(40)+ W.P.(C) 4807/2021

MD. MOFIZUDDIN

.....Petitioner

Through: Mr.P.Sureshan, Adv.

versus

**UNION OF INDIA THROUGH SECRETARY MINISTRY OF
HOME & ORS.**

.....Respondents

Through: Mr.S.K.Misra, Asst. Comm.,
SI Amit Kumar, SI Devendra
Prahlad, Constable Palve
Nilesh, CISF, UOI.

(41)+ W.P.(C) 14860/2022

A MURALI

.....Petitioner

Through: Mr.P.Sureshan, Adv.

versus

**DIRECTOR GENERAL CENTRAL INDUSTRIAL
SECURITY FORCE AND ORS**

.....Respondents

Through: Mr.Vijay Joshi, Mr.Shubham
Chaturvedi, Mr.Hemant Goyal,
Advs.

(42)+ W.P.(C) 15776/2022

RAJKUMAR

.....Petitioner

Through: Mr.P.Sureshan, Adv.

Versus

DG CISF & ORS.

.....Respondents

Through: Mr.Vikrant N.Goyal, Mr.Aditya



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Shukla, Advs.
Ms.Uma Prasuna Bachu, SPC,
UOI.

(43)+ W.P.(C) 17517/2022

SURESH

.....Petitioner

Through: Mr.P.Sureshan, Adv.
versus

DG CISF & ORS.

.....Respondents

Through: Ms.Archana Gaur, CGSC with
Ms.Ridhima Gaur,
Mr.R.Baliyaan, Advs. with
Mr.Shivakant, AC, CISF,
Mr.Atal Kumar, SI, CISF.

(44)+ W.P.(C) 17523/2022

GAIKWAD SOMNATH DADAJI

.....Petitioner

Through: Mr.P.Sureshan, Adv.
versus

DIRECTOR GENERAL, CISF AND ORS. Respondents

Through: Mr.Rajkumar Yadav, SPC with
Mr.Vaibhav Bhardwaj, Adv. for
UOI.

(45)+ W.P.(C) 17539/2022

NARESH KUMAR

.....Petitioner

Through: Mr.P.Sureshan, Adv.
versus

DG CISF & ORS.

.....Respondents

Through:

(46)+ W.P.(C) 11968/2022

SANJAY KUMAR AND ORS

.....Petitioners

Through: Ms.Saahila Lamba, Adv.
versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Satya Ranjan, SPC, UOI
with Mr.Kautilya Birat, Adv.



CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. These petitions have been filed by the petitioners *inter alia* praying that they are entitled to the grant of ACP/MACP benefits by reckoning their services to be rendered with effect from their date of appointment in the rank of Followers (Group 'D' post) instead of the date of remustration.
2. A similar issue has been decided by this Court in a batch of petitions including in ***Om Prakash & Ors. v. UOI & Ors.***, NC 2015:DHC:2214-DB, *vide* Judgment dated 05.03.2015 by holding as under:

"14. The only issue which now arises is what is the effect of some of the writ petitioners, such as Om Prakash, the writ petitioner of W.P.(C) No.388/2015, being re-mustered to the rank of Naik or in the cadre of driver trade or in the cadre of radio operator. As per learned counsel for the respondents the 24 year period of service has to be reckoned from the date they were re-mustered and not from the date they joined service initially.

15. Hitherto fore, between the rank of a Constable and a Head Constable there were two posts of Lance Naik and Naik, which posts were subsequently abolished and merged with that of a Head Constable.

16. Now, the department itself is not considering, the appointment given to Constables on re-mustering as Naik or a Lance Naik as a case of promotion, and thus we see no logic to reckon 24 years' service



from the dates noted hereinabove when some of the petitioners and the late husbands of the writ petitioners of W.P.(C) No.1717/2015 were re-mustered.

17. The ACP Scheme is clear. It envisages first ACP benefit after 12 years' service was rendered and the second benefit after 24 years' service was rendered if within the first twelve years no promotion could be earned and in 24 years' service a second promotion could not be earned. Since all petitioners and late husbands of the writ petitioners of W.P.(C) No.1717/2015 had rendered more than 12 years service, reckoned whether with effect from their initial service or from the date they were re-mustered, when the ACP Scheme was introduced in the year 1999 all were granted the benefit of the first financial upgradation with effect from the year 1999 (such who earned a first promotion after 1999 were given anti-dated scales with effect from the year 1999) and when their claims for financial upgradation on completing 24 years service came up, the department only raised one issue : of they not having undergone the pre-promotional course which was essential to be successfully undertaken to earn a promotion. As per all these persons they were denied an opportunity to undergo the pre-promotional course because the department had posted them at places from where they could not be relieved; and none of them had anything to do with their posting orders. This aspect has now been taken care of by the two office orders dated October 27, 2014 and February 16, 2015.

18. We note that all the petitioners have completed the twenty four years of service though they have not undergone the pre-promotional courses. It is the case of the petitioners that they have never been detailed for the said pre-promotional courses by the respondents. Thus they are squarely covered by the clarification issued by the respondents



vide its clarification dated February 16, 2015.

19. The writ petitions are accordingly allowed issuing a direction to the respondents to grant second ACP benefits to the petitioners and late husbands of writ petitioners of W.P.(C) No.1717/2015 with effect from the date they completed twenty four years service reckoned from the date of initial appointment. The mandamus would be subject to the petitioners and late husbands of writ petitioners of W.P.(C) No.1717/2015 being otherwise found fit for promotion.”

3. Review Petitions thereafter filed, also came to be decided by a Division Bench of this Court *vide* Judgment dated 29.01.2016 reported as 2016:DHC:699-DB, by observing as under:

“13. We have considered the rival contentions of the parties and on going through the documents and OM relied upon by the parties, it is clear that clarification No.4,5 and 6 relied upon by the respondents are not applicable in the present case whereas clarification No. 1 squarely covers the case of the petitioners for the reason the petitioners were appointed as Constable (GD) in the CRPF and were thereafter remustered as Naik RO. However, in the year 1997 the post of Naik RO was merged in the rank of Head Constable (RO) and as per clarification No.1 of DOPT's OM dated 10.02.2002 it has been clearly spelt out 'since the benefit of upgradation under the ACP Scheme are to be allowed in the existing hierarchy, the mobility under the ACP Scheme shall be in the hierarchy existing after merger of pay scales by ignoring the promotion. An employee who got promoted from lower pay scale to higher pay scale as a result of promotion before merger of pay scale shall be entitled for upgradation under



the ACP Scheme ignoring the said promotion as otherwise he would be placed in a disadvantageous position vis-a vis the fresh entrant in the merged grade.’ Thus a bare perusal of the above clarification clearly shows that upgradation under the ACP Scheme are to be allowed in the existing hierarchy. After 1997 the hierarchy prevalent in CRPF is that of Constable (RO) and then Head Constable (RO). As of today there is no post of Naik RO. Not only this, the clarification further clarifies that an employee who got promoted from a lower pay scale to a higher pay scale as a result of promotion before merger of pay scales shall be entitled for upgradation under the ACP Scheme ignoring the said promotion. Meaning thereby that in the present case the petitioner was appointed as Constable (GD) and was thereafter re-mustered as Naik RO in a higher pay scale but however, in year 1997 the post of Naik RO was merged with that of Head Constable (RO). Therefore, as per the clarification the re-mustering to the rank of Naik RO is required to be ignored for grant of ACP. As far as the judgements relied upon by the respondents is concerned the same do not deal with the issue in hand and therefore are of no consequence to the present case.”

4. Aggrieved by the above, the respondents challenged the said judgments before the Supreme Court by way of Special Leave Petitions including SLP(C) 23243/2016 titled ***Union of India & Ors. v. Shish Ram***, which have now been dismissed by the Supreme Court *vide* Order dated 12.12.2024.
5. In view thereof, the present petitions are disposed of in terms of



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the Judgment dated 05.03.2015 passed by this Court including in *Om Prakash v. UOI & Ors.* (supra) read with the Judgment dated 29.01.2016 passed in the Review Petition filed in the said Writ Petition and the Order dated 12.12.2024 passed *inter alia* in SLP(C) 23243/2016 referred to hereinabove. The respondents shall pass consequential orders thereon within a period of 12 weeks from today and release the benefit that the petitioners are entitled to in terms thereof within the said period.

6. The petitions are disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 9, 2025
RN/SJ

Click here to check corrigendum, if any