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

% **Date of decision: 08.10.2015**

+ **W.P.(C) 3982/2011**

**GYAN PRAKASH** ..... Petitioner

Through: **Mr.U.Srivastava, Advocate**

versus

**UOI AND ORS.** ..... Respondents

Through: **Dr.Ashwani Bhardwaj, Advocate**  
**Mr.B.K.Raut, Pairvi Cell, CRPF**  
**Mr.S.S.Sejwal, Law officer, CRPF**

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MS. JUSTICE DEEPA SHARMA**

**MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)**

1. The petitioner is aggrieved by the rejection of his claim for Modified Assured Career Progression (MACP) Scheme benefit of third financial upgradation by the respondents.

2. The undisputed facts of this case are that the petitioner joined Central Reserve Police Force (CRPF) on 04.02.1975 and was subsequently promoted as Naik on 14.06.1988. He was later promoted as Havildar/carpenter on 11.05.1991. It is stated that the petitioner – with the advent of the Assured Career Progression Scheme (ACP) – with effect from 09.08.1999 claimed financial upgradation benefits under it contending that he was entitled to them.

He was however unsuccessful in persuading the respondents to give such benefits. Eventually, he retired from services on 31.08.2008 after attaining the age of superannuation. The petitioner claims that he is entitled to the third financial upgradation in terms of the MACP since he had completed 30 years of service and that unfortunately his denial on account of his superannuation on 31.08.2008 is arbitrary. In support of the submissions, petitioner's counsel relies upon the judgment of the Supreme Court reported as ***R. L. Marwaha vs. Union of India & Others*** 1987 (4) SCC 31 where under somewhat similar circumstances, discrimination on the basis of the date of formulation of the scheme/rule with respect to calculation of qualifying service for pension was held to be unjustified. Learned counsel also relied upon ***Kishan Lal Kalal vs. State of Bihar and Others*** 1990 (Supp) SCC 165.

3. The basic premise of the ACP Scheme – the first of its kind formulated on 01.08.1999 is that the concerned official/employee is unable to secure any promotion during his entire career span. To avoid stagnation and frustration, the central government directed that in such cases – where the employee does not get any promotional benefit in accordance with its existing and applicable recruitment rules and policies, complete 12 years and 24 years respectively, he/she would be entitled to financial upgradation in the immediately promotional grade/post according to the hierarchy available in the organization. The other condition which the candidate had to fulfil was, with respect to educational qualifications and bench mark provisions required in the promotional rules/policies. This scheme

was refined late and instead of two, three financial upgradations were assured in MACP which was brought into force with effect from 01.09.2008 by a notification dated 06.08.2009.

4. The petitioner's complaint is that he really belongs to class of employees who ought to be given the third financial upgradation entailment of the MACP. We do not agree because the scheme was formulated and published later though given retrospective effect from 01.09.2008. This court notices that scheme is not statutory in character and was meant to relieve stagnation at different levels. The first important observation is that the petitioner was the recipient of not less than three promotions and would have in terms of even the existing conditions – been disentitled to any further career progression as on 31.08.2008 when he actually retired from the services. Secondly, the petitioner attained the age of superannuation on 15.08.2008 but actually retired from the services on 31.08.2008 on account of a specific rule.

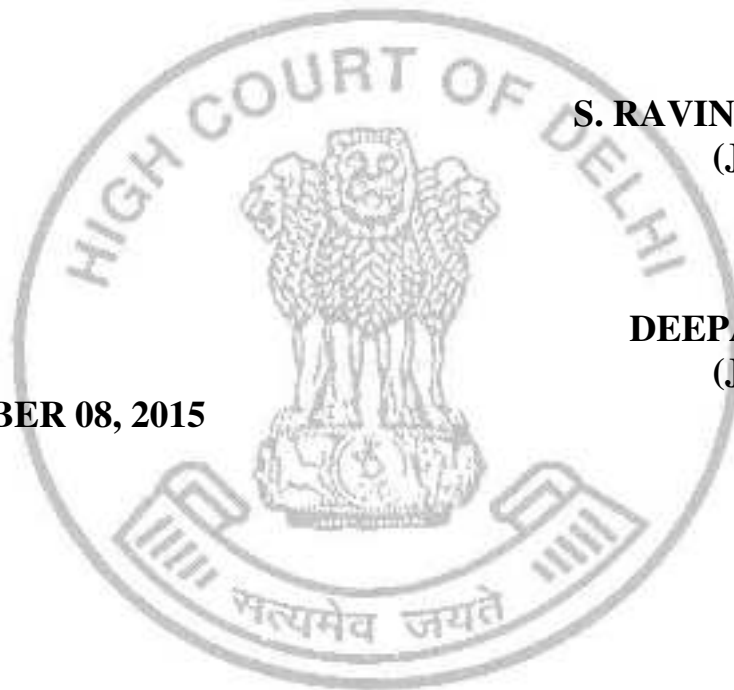
5. As far as reliance on ***R.L.Marwah*** (supra) and ***Kishan Lal Kalal*** (supra) are concerned, this court is unpersuaded by the submissions. ***R.L. Marwah*** (supra) was a case dealing with entitlement to pension. Now it is well settled after ***D.S.Nakara & Others vs. Union of India*** 1983 AIR 130 and further judgment which have explained that all pensioners form the same class and cannot be discriminated against on the basis of dates of retirement. That logic, however cannot prevail in the present case. What the court has to contend with is a claim for promotion on the basis of a scheme or

policy brought into force after the employee superannuated from service.

6. So far as *Kishan Lal Kalal* (supra) is concerned, the factual situation is exactly the reverse; the notification became effective prior to the date of the petitioner's superannuation and therefore applied in full force. All the court could have done was to effect its mandate.

7. For the above reasons, the writ petition is dismissed.

OCTOBER 08, 2015  
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**S. RAVINDRA BHAT  
(JUDGE)**

**DEEPA SHARMA  
(JUDGE)**