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

**Decided on : 27.07.2015**

+ W.P.(C) 5595/2014

G.R. SHARMA

..... Petitioner

Through: Mr S.R. Jolly, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms Abha Malhotra and Ms Veera Angrish,  
Advs along with Mr A.K. Singh, Inspector, CISF

**CORAM:**

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

**HON'BLE MS. JUSTICE V.K. SHALI**

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

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1. The petitioner is aggrieved by the denial of ACP benefits to him. He, therefore, seeks a direction that the order dated 17.11.2012, which rejected the representation, should be quashed and appropriate directions be issued to the respondents to release the ACP benefits.

2. The brief facts are that the petitioner joined the Central Industrial Security Force (CISF) on 02.09.1975. He continued to serve the Force and retired on 31.03.2013 after completing 37 years of service. He contends that having completed 12 years of service on 02.09.1987 and 24 years service on 01.09.1999 he was entitled to the grant of ACP benefits—First Financial Upgradation with effect from 09.08.1999 and Second Financial Upgradation with effect from 01.09.1999 in terms of the Central Government's Office Memorandum dated 09.08.1999, which conferred Assured Career Progression (ACP) benefits to those

who were unable to earn promotion in the normal course, according to the Recruitment Rules. It is submitted that the Screening Committee, which considers the suitability of candidates for ACP benefits had, in fact, recommended the petitioner's case in its meeting on 26.05.2000, subject to the rider that in case there were disciplinary proceedings pending against him, the ACP benefits would not be given. Later, however, the CISF, after considering the previous records, especially the penalty order dated 27.01.2000, felt that ACP benefits could not be granted. The petitioner was communicated this as well as the adverse remark recorded, against which he represented to the concerned authorities. It is contended that the said adverse remark was expunged. Learned counsel contends that notwithstanding these developments, the respondents have unjustly denied ACP benefits to him. He relies upon the conditions of the ACP Scheme of 09.8.1999 to say that intention of the authorities was to ensure that those deprived or denied regular promotion due to lack of vacancies or other such conditions had to be given career advancement as an incentive.

3. The respondents in the counter-affidavit have denied the petitioner's claim. It is stated that the petitioner was imposed penalty under Rule 35 of the CISF Rules on 27.01.2000 and that even though this aspect was ignored by the Screening Committee on 26.05.2000 when it recommended release of ACP benefits subsequently, the CISF, on consideration of the records, decided that the petitioner was not yet fit.

4. Resisting the claim, it is contended that one of the essential conditions for grant of ACP is that the employee should be eligible for consideration in terms of the existing Rules/policies. Stating that for promotion to the concerned higher post, the individual had to possess at least 5 "Good" gradings in the preceding five years, it is contended that the record of the petitioner did not entitle him to the

benefits sought in these proceedings. The respondents submit that from the year 1996 to 2010, at no point of given time, did the petitioner possess consistent “Good” gradings for five consecutive years. The respondents say that in the said 15 years’ period, the petitioner managed to secure only about 7 “Good” gradings. It is also stated that the petitioner was awarded several penalties in his career. They are detailed in the form of a chart, which is extracted below:

| S.No. | Brief of Misconduct                                | Punishment awarded                                                                                                                                      | Final order/service order                                                                                     |
|-------|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| 1.    | For absenting from Parade.                         | Censure                                                                                                                                                 | S.O. Part.II No.501/1982 dated 14.12.1982                                                                     |
| 2.    | For absenting from duty                            | One day pay fine.                                                                                                                                       | S.O. Part.II No.88/1983 dated 07.06.1983                                                                      |
| 3.    | For AWL (Absent without Leave)                     | Withholding of one increment for two years with cumulative effect.                                                                                      | Final Order No.(513) dated 07.04.1985.                                                                        |
| 4.    | For using abusing language towards Sr. Officers.   | Dismissal from serve<br><br>Lager the penalty was modified to that of “Reduction of pay by two stages for a period of two years with cumulative effect. | Final Order No. (3177) dated 08.09.1990.<br><br>Revisioning Authority (IG/DS) Order No.(81) dated 12.09.1990. |
| 5.    | For absenting from unit line.                      | Censure                                                                                                                                                 | Final Order No.(1217) dated 26.06.1991.                                                                       |
| 6.    | For using filthy language and misbehave with ASI/E | Withholding of one increment for one year                                                                                                               | Final Order No. (2326) dated 20.09.1991                                                                       |

|     |                                                                                      |                                                                                                                                                         |                                                                                                                 |
|-----|--------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
|     | Radhey Shyam                                                                         | without cumulative effect.                                                                                                                              |                                                                                                                 |
| 7.  | For absenting from duty post.                                                        | Three days pay fine.                                                                                                                                    | Final Order No. (743) dated 15.04.1994.                                                                         |
| 8.  | For absenting from unit line.                                                        | Censure                                                                                                                                                 | Final Order No. (220) dated 21.02.1997.                                                                         |
| 9.  | For sending application directly to higher authority ignoring the proper channels.   | One day pay fine.                                                                                                                                       | Final Order No.(1013) dated 11.08.1997.                                                                         |
| 10. | For AWL (Absent without leave)                                                       | Two days pay fine.                                                                                                                                      | Final Order No. (189) dated 27.06.2000.                                                                         |
| 11. | For absenting application directly to higher authority ignoring the proper channels. | Censure                                                                                                                                                 | Final Order No.(442) dated 10.09.2008.                                                                          |
| 12. | For sleeping while on duty                                                           | Seven days pay fine.<br><br>In suo moto review, the penalty was modified to that of "withholding one increment for one year without cumulative effect." | Final Order No. (1742) dated 21.12.2008.<br><br>Gp. Comdt. CISF Gp. Ahmedabad Order No. (735) dated 15.07.2009. |
| 13. | For indulging in quarrel with colleague.                                             | Seven days pay fine.                                                                                                                                    | Final Order No. (2747) dated 01.11.2010                                                                         |

5. It is stated that the penalties imposed upon the petitioner were not trivial and were on account of misbehaviour and dereliction of duty such as sleeping on duty, etc. This Court has considered the submissions. The respondents do not deny that the petitioner had completed 12 and 24 years, which entitles an employee for

consideration of the ACP benefits. However, the completion of such qualifying service itself is not the only determinative criteria. The employee has also to fulfil other conditions, which would ordinarily entitle him to be promoted such as the qualifications for higher post, qualifying service required by the Rules, qualifying experience required by the Rules and the fulfilment of the essential bench mark according to the existing policy in terms of the number of annual confidential report gradings. Additionally, the employee has to be medically fit to discharge the duties required of him in the higher post.

6. In the present case, as noticed earlier, though the petitioner fulfills the eligibility and the qualifying service criteria, he did not fulfil other parameters, the most notable one being the need to possess five “Good” ACRs grading for each of the financial upgradations. Furthermore, the petitioner was imposed several penalties almost from the inception of his career—which are 13 in number.

7. Having regard to these facts, this court is of the opinion that no case is made out for granting relief claimed in these proceedings.

The writ petition fails and is dismissed.

**S. RAVINDRA BHAT**  
**(JUDGE)**

**V.K. SHALI**  
**(JUDGE)**

**JULY 27, 2015**  
**BG**