

\$~14, 16 & 17

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

+ **W.P.(C) 5060/2015**

PUSHKAR DUTT Petitioner

Represented by: **Mr.O.P.Aggarwal, Advocate**

versus

UNION OF INDIA AND ORS. Respondents

Represented by: **Mr.Ruchir Mishra, Advocate with
Mr.Sarfaraz Ahmad, Advocate**

W.P.(C) 5073/2015

PREM CHAND Petitioner

Represented by: **Mr.O.P.Aggarwal, Advocate**

versus

UNION OF INDIA & ORS Respondents

Represented by: **Mr.Kavindra Gill, Advocate for R-1
to R-6**

W.P.(C) 5074/2015

BHAGWATI PRASAD RATURI Petitioner

Represented by: **Mr.O.P.Aggarwal, Advocate**

versus

UNION OF INDIA & ORS Respondents

Represented by: **Ms.Shiva Lakshmi, CGSC with
Mr.Rahul Chouhan, Advocate**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
20.05.2015

CM No.9154/2015 in W.P.(C) No.5060/2015
CM No.9176/2015 in W.P.(C) No.5073/2015
CM No.9177/2015 in W.P.(C) No.5074/2015

Allowed subject to just exceptions.

W.P.(C) Nos.5060/2015, 5073/2015 & 5074/2015

1. On May 11, 2015 a batch of writ petitions filed by persons holding ranks of Constable, Head Constable, Assistant Sub-Inspector and Sub-Inspector in Sahastra Seema Bal were disposed of by us on the issue of their entitlement to the benefit of the first, second and third financial upgradation under the ACP Scheme notified in the year 1999 and the MACP Scheme notified in the year 2008. The order reads as under:-

1. All petitioners except Ramesh Chandra the writ petitioner of W.P.(C) 4636/2015 are either serving or have retired as enrolled members of the Force: Sahastra Seema Bal which originally was known as Special Service Bureau. The Cadre Controlling Authority for both being the Ministry of Home Affairs.

2. Petitioners hold different ranks or have retired from different ranks such as Constable, Head Constable, Assistant Sub Inspector and Sub Inspector.

3. The claim of some petitioners is to grant of first financial upgradation under the Assured Career Progression Scheme who did not earn promotion within first 12 years of service and thereafter to the benefit of the second financial upgradation on rendering 24 years service if no second promotion in the next 12 years was granted, which period got reduces to 20 years service under the Modified Assured Career Progression Scheme. The claim of some is to the benefit of the second upgradation.

4. *Some petitioners had worked as Naiks which post was abolished and they were re-mustered as Head Constables.*

5. *The writ petitions have not been preceded by a representation to the respondents calling upon to the respondents to take a reasoned decision with respect to the petitioners' entitlements under the Assured Career Progression Scheme notified on August 19, 1999 as also the Modified Assured Career Progression Scheme which was notified somewhere in the year 2008.*

6. *It is trite that where mandamus is claimed the writ petition must be preceded by a representation to the statutory authority drawing attention of the statutory authority to such facts which the representee wants the authority to consider. This would enjoin upon the authority concerned to decide the representation with a reasoned decision.*

7. *Under the circumstances we dispose of all writ petitions issuing a direction to the respondents to treat the writ petitions as a representation and pass a reasoned order. Qua such petitioners whose representations are accepted, full or in part, necessary payment with arrears shall be disbursed. Those who are receiving pension will be entitled to their pension being re-fixed in view of the decision taken.*

8. *Necessary decision be taken within 12 weeks from today and communicated to the petitioners. Needless to state if the petitioners or anyone of them is/are aggrieved by the decision taken they would be entitled to the remedy as per law.*

9. *No costs.*

10. *Dasti.*

2. The petitioners of the above captioned petitions are also claiming entitlement under the ACP and MACP Scheme. We note that the petitioner of W.P.(C) No.5060/2015 superannuated on March 31, 2006 and claims

4

entitlement for first and second financial upgradation under ACP Scheme and the petitioner of W.P.(C) No.5073/2015 superannuated on July 31, 2012. The petitioner of W.P.(C) No.5074/2015 superannuated on March 31, 2011. Thus these two claim benefit of two financial upgradations under the ACP Scheme and one financial upgradation under the MACP Scheme.

3. The three captioned petitions are disposed of declaring that the directions issued in paragraph 7 and 8 of the decision dated May 11, 2015, contents whereof have been noted by us in paragraph 1 above would be treated as directions issued even in the above captioned petitions.

4. No costs.


PRADEEP NANDRAJOG, J.


PRATIBHA RANI, J.

MAY 20, 2015

mamta