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

+ **W.P.(C) 5675/2015**

NARENDER KUMAR SINGH Petitioner
Represented by: Mr.O.P.Aggarwal, Advocate with
Mr.Deepak Agarwal, Advocate

versus

UNION OF INDIA & ORS. Respondents
Represented by: Mr.Sarfaraz Ahmad, Advocate with
Mr.Ruchir Mishra, Advocate

W.P.(C) 5696/2015

RATANA RAM BANTA Petitioner
Represented by: Mr.O.P.Aggarwal, Advocate with
Mr.Deepak Agarwal, Advocate

versus

UNION OF INDIA & ORS. Respondents
Represented by: Mr.Sarfaraz Ahmad, Advocate with
Mr.Ruchir Mishra, Advocate

W.P.(C) 5698/2015

SHEKHAR CHANDRA PANDEY Petitioner
Represented by: Mr.O.P.Aggarwal, Advocate with
Mr.Deepak Agarwal, Advocate

versus

UNION OF INDIA & ORS. Respondents
Represented by: Mr.Manish Mohan, CGSC with
Ms.MANISHA Rana Singh and

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Ms.Hina Shaheen, Advocates

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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28.05.2015

CM No.10210/2015 in W.P.(C) No.5675/2015

CM No.10234/2015 in W.P.(C) No.5696/2015

CM No.10235/2015 in W.P.(C) No.5698/2015

Allowed subject to just exceptions.

W.P.(C) Nos.5675/2015, 5696/2015 & 5698/2015

1. Counsel as above appears for the respondents and states that counter affidavit need not be filed because all relevant documents have been filed by the writ petitioners.
2. The writ petition is being disposed of noting the dates given by the petitioners of the three captioned petitions of having joined service under CRPF and when they completed 12 years and 24 years of service, as also 10 years, 20 years and 30 years service. We take on record the statement made by learned counsel for the respondents that these dates would be subject to verification by the respondents, to which learned counsel for the petitioners agrees.
3. The issue arising in the captioned writ petition concerns implementation of the Assured Career Progression Scheme (ACP) as also the Modified Assured Career Progression Scheme (MAC), as per the former, those who had rendered twelve years service and had earned no promotion, subject to fitness, would be entitled to the first financial upgradation and upon completion of twenty four years service, if no second promotion was

earned, subject to fitness, would be entitled to the second financial upgradation; and as per the latter three financial upgradations being granted if no promotion was earned in first 10 years' service, no second promotion was earned after rendering 20 years' service and third promotion not being earned after rendering 30 years' service.

4. The Assured Career Progression Scheme was introduced in the year 1999. The object was to avoid stagnation in service. The scheme envisaged placement of the incumbent in the next higher grade; akin to an in-situ promotion. The Modified Assured Career Progression Scheme also envisaged placement in the next higher grade; akin to an in-situ promotion.

5. The grievance in the writ petitions is to non-grant of the benefit of the financial upgradations.

6. The reason for which ACP benefit of upgradation is not being accorded is that the service rules envisage successful completion of a pre-promotional course. The grievance of the writ petitioners on said issue is that the department was at fault inasmuch as the department did not detail the petitioners to undertake the pre-promotional course.

7. The said issue at hand is squarely covered by a Division Bench judgment of this Court in a batch of writ petitions decided on September 06, 2013, the lead matter being W.P.(C) No.5539/2013 Jaipal Singh & Ors. vs. Union of India & Ors. The view taken was that if a department has not detailed a person for pre-promotional course the person cannot be prejudiced by the inaction of the department.

8. We note that on October 27, 2014 an office order had been issued which reads as under:-

"No.P-VII-52/2014-ESTT Dated, the 27th /Oct/2014

To

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*The Spl./Addl. DG,
JKZ/CZ/NEZ/SZ.*

*The Inspectors General of Police, 1
BS/CS/CHHG/CoBRA/JMU/JKD/M&N/MP/NES/NS/NW
S/ODISHA/RAF/RAJ/SS/SNR/TPA/WS/WB/OPS KMR/
OPS JHT/ISA MT ABU/CRPF ACDY KDR.
The Deputy Director (Accts), PAO, CRPF.*

**Sub :- REGARDING GRANT OF FINANCIAL BENEFITS
UNDER APC/MACP SCHEME – CLARIFICATION.**

*Please refer to this Dte letter No.P-VII-52/2012-Estt dated
8/10/2012 and signal No.P-VII-52/2013-Estt dated 3/7/2013.*

*2. As per guidelines issued vide this Dte letter/signal under
reference, Head Constable (GD/Technical/Tradesmen) were
allowed 2nd financial up-gradation under ACP scheme (of
Aug'1999) from the date of qualifying promotional course and
fulfilment of other eligibility conditions.*

*3. The issue has been further examined in consultation with
MHA & DoPT and following clarifications are issue :-*

*i) Those Head Constables (GD/Technical/Tradesmen) who
were detailed on promotional courses after completion of 24
years of service and successfully qualified the promotional
course, they may be allowed 2nd financial up-gradation under
ACP scheme (of Aug'1999) from the date of completion of 24
years of service provided they fulfils other eligibility conditions
on the relevant date of completion of 24 years of service.*

*ii) Since ACP scheme was operative from 9/8/1999 to
31/8/2008. Hence no HC (GD/Technical/Tradesmen) shall be
allowed 2nd financial up-gradation under ACP scheme (of
Aug'1999) prior to 9/8/1999 and after 31/8/2008.*

*iii) The Head Constable (GC/Technical/Tradesmen) who have
not qualified promotional courses shall not be eligible for 2nd*

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financial benefit under ACP scheme as they have not fulfilled the promotion norms.

4. The cases of all affected personnel may be reviewed accordingly.

SD/ 27/10/2014"

9. A clarificatory office memorandum dated February 16, 2015, issued by Ministry of Home Affairs, has clarified as under:-

"CRPF is allowed to grant 2nd Financial Up Gradation under ACP Scheme to all eligible, Constable/Head constable (Executive/Technical/Tradesmen) from the date they have completed 24 years of regular service, overlooking the condition of any prepromotional course criteria in those cases where such personnel could not be sent on pre-promotional course by CRPF, due to administrative reasons and not due to any reason owing to such a person concerned, as clarified by DoP&T."

10. A reading of the above clearly shows that Clause III of the letter dated October 27, 2014 issued by the respondents has already been nullified and superseded by the clarification issued by the respondents on February 16, 2015 and the signal dated February 20, 2015.

11. The writ petitions are accordingly disposed of quashing the orders challenged denying grant of ACP/MACP benefit to the petitioners. The case of the petitioners would be considered for grant of benefit under the ACP and MACP scheme and their fitness would be considered with reference to their service record and it would be ignored that the petitioners did not clear the pre-promotional courses.

12. The necessary decision would be taken and conveyed to the petitioners within twelve weeks from today. If petitioners are found eligible for being promoted, and as a consequence held entitled to the benefit under

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the ACP and the MACP schemes, the same shall be extended to them within the same period. The arrears would be paid within six weeks of the decision being taken. If arrears are not paid within six weeks of the decision being taken the same shall be paid with simple interest @ 8% per annum.

13. No costs.


PRADEEP NANDRAJOG, J.


PRATIBHA RANI, J.

MAY 28, 2015

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