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

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Date of Decision : January 05, 2015

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W.P.(C) 22/2015

JASWANT SINGH & ANR

..... Petitioners

Represented by: Mr.Aditya Chhibber, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Represented by: Mr.Vikas Mahajan, CGSC with
Mr.S.S.Rai & Mr.Rohan
Gupta, Advocates
Mr.Bijaya Kumar Pant, Pairvi
Officer & Mr.S.S.Sejwal, Law
Officer

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

CM No.50/2015

Allowed as prayed for.

W.P.(C) 22/2015

1. Learned counsel as above appears for the respondents on advance notice of the writ petition being served and waives notice.
2. With the consent of learned counsel for the parties we have heard arguments in the writ petition noting that facts are not disputed and hence there is no need to file a counter affidavit.

3. Issue concerns implementation of the Assured Career Progression Scheme (ACP) as per which those who have rendered twelve years service and have 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 is earned, subject to fitness, would be entitled to the second financial upgradation.
4. The first petitioner joined services in CRPF as a Constable (GD) on December 29, 1976. He completed twelve years service on December 29, 1988. He earned promotion to the rank of Head Constable in the year 1995. He completed twenty four years service on December 29, 2000. The second petitioner joined services as a Constable (GD) in CRPF on September 16, 1975. He completed twelve years of service on September 16, 1987. He was promoted as a Head Constable on October 10, 1997. He completed twenty four years service on September 16, 1999.
5. 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.
6. The grievance in the writ petition is to non grant of the benefit of second financial upgradation upon completing twenty four years service.
7. The reason for which ACP benefit pertaining to the second financial upgradation is not being accorded is that the service rules envisage successful completion of a pre-promotional course. The grievance of the petitioners on said issue is that the department was at fault inasmuch as the department did not send the petitioners to undertake the pre-promotional course.
8. The 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.

9. Learned counsel for the respondents states that on October 27, 2014 an office order has been issued which reads as under:

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

To

*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 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"

10. We note that both petitioners have successfully completed the pre-promotional course, albeit after rendering twenty four years of service. The case of the petitioners is thus squarely covered by sub-paragraph (i) of the paragraph 3 of the office order dated October 27, 2014.

11. The writ petition is accordingly allowed issuing a direction to the respondents to grant second ACP benefits to the petitioners with effect from the date they completed twenty four years service. The mandamus would be subject to the petitioners being otherwise found fit for promotion.

12. The necessary decision would be taken and conveyed to the petitioners within eight weeks from today. If petitioners are found eligible for being promoted and as a consequence would be entitled to the second ACP benefit, 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 interest @ 8% (simple) per annum.

13. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JANUARY 05, 2015
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