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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on : 24.08.2015

+ W.P.(C) 7964/2015

BHAGWAN DAS

..... Petitioner

Through: Ms. Ankita Patnaik, Advocate
alongwith Ms. Punam Singh,
Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms. Monika Arora, CGSC alongwith
Mr. Harsh Ahuja, Advocate for R-1 to
R-3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. Issue notice. Ms. Monika Arora, Advocate appearing on behalf of the respondents accepts notice. With the consent of the counsel for the parties, the matter is heard finally for disposal.
2. The petitioner complains in these proceedings under Article 226 of the Constitution with respect to timely grant of ACP - he submits that his case for consideration was unduly delayed resulting in injustice.
3. The petitioner joined the Central Industrial Security Force (CISF) on 15.06.1994. On 09.08.1999, the Government of India issued the Office Memorandum and brought into force the Assured Career Progression (ACP) Scheme which enables the employees to secure time bound upgradation regardless of availability of vacancies providing a fulfillment of essential

conditions prescribed for promotional posts. The petitioner claims that even though he was entitled for consideration for promotion to the higher rank/post, his consideration was unduly delayed. It is submitted that firstly the respondents insisted upon his clearing a pre-promotional course after he became eligible in June 2006. It is submitted that the petitioner had actually underwent the course, the result of which was successfully declared on 03.11.2006. Nevertheless, his case was taken up for consideration only on 29.03.2012 when it was rejected and finally he has now been granted the 1st ACP w.e.f. 02.04.2014 vide order dated 31.03.2015. It is submitted that this is a mere Modified Assured Career Progression benefit (formulated in 2008) contrary to his entitlement to be considered and granted the benefits in 2006.

4. The respondents submit that the petitioner was denied ACP benefit in 2006, because in 2007 and 2010, two minor penalties were inflicted which were in force. This had to be taken note of when his case of ACP was first considered in 2012. It is therefore submitted that grant of MACP in 2015 under the circumstances w.e.f. 02.04.2014 is justified.

4. This Court had declared in a judgment reported as ***R.A.S Yadav vs Union of India and Anr, 2013 DRJ 603*** that passing the pre-promotional course is inessential given that not all employees are actually deployed in such courses and that atleast for the grant of ACP benefits, the authority concerned cannot insist upon such a requirement. So far as the respondents' contention with respect to the petitioner's penalties is concerned, this Court is of the opinion that this was entirely unwarranted and irrelevant in the circumstances. It is not in dispute that the petitioner actually underwent the promotional course and was declared successful on 03.11.2006. He had completed 12 years as of June 2006. Between these two dates, he was

certainly entitled to be considered for the first ACP benefit keeping with the prevalent policy framed on 09.08.1999. The weightage granted to the subsequent penalties-inflicted upon the petitioner in 2007 and 2010 respectively were entirely out of the matrix and should not have been considered by the respondents. By doing so, they unduly deprived the petitioner of the legitimate benefit to which he was entitled as of June 2006.

5. For the above reasons, the impugned order is hereby set aside. The respondents are hereby directed to consider the petitioner's records for the grant of ACP benefits as on 15.06.2006 i.e. after he completed 12 years in line with the ACP Scheme of 1999 and if he was found eligible on that date, he be granted the same said benefit with effect from the said. Since he has now completed 20 years of service as of June 2014, consequently the petitioner's entitlement for consideration of the second upgradation in the MACP would have to be taken into account and given w.e.f. June 2014. The entire exercise shall be concluded within 8 weeks from today. The differential in pay, salary, allowances, annual increments etc. shall also be disbursed to the petitioner within said period.

The writ petition is allowed in the above terms.

Order *dasti*.

S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)

AUGUST 24, 2015/sapna