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

+ W.P.(C) 8971/2015 & CM No. 20227/2015

KRISHAN CHAND MOR

..... Petitioner

Through: Mr. B.S. Mor, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Manish Mohan, CGSC alongwith
Mr. Sumit Rajput, Ms. Sidhi Arora ,
Mr. Shivam Chanana and Mr. Arvind
Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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21.09.2015

The petitioner claims entitlement for ACR benefits and contends that even though he was been eligible since 2005, the respondents denied the same. He therefore seeks a direction from the Court that the pay-scales and attached to the post of Sub-Inspector be extended to him w.e.f. 2005.

The facts briefly stated are that the petitioner appointed by the Border Security Force (BSF) as a Constable in 1981. In 1990, he was regularly promoted to the rank of Lance Naik and subsequently on 25.04.1994, he was promoted to the rank of Naik and still later on 10.10.1997, he was given the third promotion by the Force to the grade of Hawaldar. He has been promoted yet again as Assistant

Sub-Inspector (ASI) on 05.04.2012.

The claim for ACR benefits in the petitioner's case is premised upon the fact that for the period between 1997 and 2012 is stagnated in the same grade i.e. as Hawaldar. The respondents in their reply to the petitioner's representation refuted his claim stating that he attained eligibility for promotion as ASI only in 2007 and therefore could not have been considered.

It is evident from the above narrative that the petitioner has been recipient of regular promotion. In fact, last in the series of promotions, the benefit which was conferred upon him was on 16.01.2013 when he was promoted to the rank of Sub-Inspector. The Assured Career Progression (ACP) Scheme formulated by the Central Government w.e.f. 09.08.1999, envisions the grant of financial upgradation to the immediately higher promotional grade upon fulfilment of certain conditions. The entire scheme is premised upon the employee who has not been promoted at all during his entire career and assures him or her at least two financial upgradations. The conditions for grant of the ACP benefits are spelt out in Annexure-A of the ACP Scheme of 09.08.1999. They read as follows:-

4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc this would have consequential effect on the second upgradation which would also get deferred accordingly;

5.1 Two financial upgradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in-situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him;

5.2 Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit;

6. Fulfilment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group 'D' employees, etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits (House Building Advance, allotment of Government accommodation, advances, etc) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc) shall be ensured for grant of benefits under the ACP Scheme."

In the present case, it is evident that the petitioner has been beneficiary of not less than four regular promotions in the entire span

of his career. In these circumstances, there can be no question of being entitled to claim ACP benefits as are being contended by him in the present proceedings.

The writ petition is therefore unmerited and consequently dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 21, 2015

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