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

Decided on : 06.10.2015

+ **W.P.(C) 9487/2015 and CM No. 22263/2015 (Exemption)**

RAKESH KUMAR AND ORS Petitioners
Through: Mr Niraj Jha and Mr Vinod Sharma,
Adv.

versus

UNION OF INDIA AND ORS Respondents
Through: Mr Dev P. Bhardwaj, CGSC for UOI
and Mr Abhishek Agarwal, Adv.

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. Mr Dev P. Bhardwaj, CGSC accepts notice on behalf of the respondents.
2. All the petitioners have retired from the service. They were working with Sashastra Seema Bal (SSB), i.e., the third respondent. The service particulars of the petitioners, i.e., the date of entering into the public service, the designation at that time and the date of retirement, etc. have been set out in Annexure P-2, which is part of the record. Their common complaint is that despite long years of service, they were neither promoted nor given the benefit of the Assured Career Progression (ACP) Scheme. This is the

common complaint of petitioners No.1 to 22. In the case of the petitioners No.23 to 31, the common ground is that they have been denied the benefit of the subsequent scheme, i.e., Modified Assured Career Progression (MACP) Scheme. The particulars of these petitioners, including the date of their retirement from the service are set out in Annexure P-5. The petitioners rely upon several orders of this Court, including the judgment in *W.P.(C) No.3123/2014, Dharamvir vs. Union of India and Ors. and other connected cases*, decided on 26.05.2014 and *W.P. (C) No.8983/2014 Ranjit Singh and Ors. vs. Union of India & Ors.*, decided on 13.02.2015. This Court had in the latter case, i.e., *Ranjit Singh and Ors. (supra)* highlighted the need to ensure that public employees are given the benefits of ACP. The Court stated as follows:-

“4. The ACP scheme envisaged first financial upgradation after 12 years service if promotion was not earned during a said period due to non-availability of a promotional post. It envisaged a second financial upgradation after 24 years service if second promotion could not be earned due to non-availability of a post. Under the MACP scheme the first upgradation was to after 10 years if promotion could not be earned in 10 years due to non-availability of a promotional post, second financial upgradation was to be given on completion of 20 years service due to non-availability of a promotion post and third financial upgradation on rendering 30 years service if the third promotion could not be earned due to non-availability of a promotion post.

5. Learned counsel for the respondents states that the entitlement under the ACP and MACP schemes, to be considered for the financial upgradations as noted above is not being disputed by the respondents. However, the upgradations are not automatic. The entitlement has to be earned on the

standard of fitness which means that the person concerned should qualify for being promoted. The reason being, non-availability of the promotion post is the cause for stagnation which was to be remedied by the ACP and MACP schemes.

6. Learned counsel for the petitioners does not dispute this stand on the interpretations of the two schemes stated by the learned counsel for the respondents.

7. Learned counsel for the respondents states that since facts concerning each petition in the writ petitions need to be verified with reference to the service record and fitness determined, the two writ petitions may be disposed of requiring the same to be treated as a representation to the respondents who would look into the service record of each petitioner and pass the necessary orders within six weeks from today.

8. Such petitioners who are found entitled to the benefit of ACP and MACP schemes would be granted the increments from the date they were eligible to receive the same. Such not found entitled would be intimated said fact with reasons for the conclusion.”

3. In the present case too, this Court is of the opinion that having regard to the materials placed on the record, the respondents should consider and grant the benefits which the petitioners are eligible, given the nature and extent of their services. Consequently, a direction is issued to the respondents, especially SSB to review the records of all the petitioners and wherever admissible grant the benefits of ACP/MACP, as the case may be. In case any of the petitioners or all of them are determined to be entitled to the benefits, appropriate pay fixation and consequent pension fixation at higher stages shall be resorted to and arrears by way of differential amounts

shall also be disbursed. The entire exercise shall be completed within 12 weeks from today.

The writ petition is allowed in above terms. The pending application also stands disposed of.

S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)

OCTOBER 06, 2015
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