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

+ **W.P.(C) 11760/2015 & CM No. 31280/2015**

DHANBIR SINGH, ND/SUB.

..... Petitioner

Through: Mr. O.P. Agarwal, Advocate
alongwith Mr. Deepak Agarwal,
Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Bhagwan Swarup Shukla, CGSC
alongwith Mr. Abhishek Khanna, G.P.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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18.12.2015

Issue notice. Mr. Bhagwan Swarup Shukla, Advocate appearing on behalf of the respondents accepts notice.

The petitioner's claim is for the grant of ACP Scheme. He was appointed as Constable in the Assam Rifles on 29.03.1981. Subsequently, upon formation of the Sashastra Seema Bal (SSB), he was placed under its control and for their disposal. He was promoted as Hawaldar in 1998 i.e. before ACP Scheme came into force. The ACP Scheme came into force in 09.08.1999-his claim is that immediately after completion of 24 years of service, he would be entitled to the ACP Scheme i.e. w.e.f. 23.03.2005.

In support to the petitioner's claim, reliance is placed upon

para-15 of the Annexure of the ACP Scheme dated 09.08.1999. The same reads as follows:-

“15. Subject to Condition No. 4 above, in cases where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the scheme shall be granted directly. Further, in order to rationalize unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one-time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.”

We notice, at the very outset, that the condition relied upon is expressly same subject to para-4 which reads 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;

It is quite evident that the reference to upgradation is after completion of 12 years of the first ACP itself. This is made clear in para 5.1 which states as follows:-

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;

The specific reference to regular promotions in our opinion in the second sentence of para 5.1, negate the claim made in the present case. Here, the petitioner was recipient of promotion in 1998. What he is claiming is that just merely because he completed 24 years of service, he would be entitled to second ACP-which would ordinarily be available to one who is not promoted at all; such an individual would have to wait for the second upgradation for 12 years after which he

would be entitled to it.

For above reasons, we find no merit in the writ petition.

The petition is accordingly dismissed.

Order *dasti*.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

DECEMBER 18, 2015

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