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

% *Date of Decision : July 18, 2016*

+ **W.P.(C) 6092/2016**

KISHAN CHAND Petitioner

Represented by: Mr.Ankur Chhibber, Advocate

versus

UNION OF INDIA AND ORS Respondents

Represented by: Ms. Bharti Raju, Advocate

W.P.(C) 6108/2016

D SREEKANDAN NAIR Petitioner

Represented by: Mr.Ankur Chhibber, Advocate

versus

UNION OF INDIA AND ORS Respondents

Represented by: Ms.Bharti Raju, Advocate

W.P.(C) 6122/2016

NARESH KUMAR Petitioner

Represented by: Mr.Ankur Chhibber, Advocate

versus

UNION OF INDIA AND ORS Respondents

Represented by: Ms.Bharti Raju, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

CM No.24971/2016 in W.P.(C) No.6092/2016
CM No.25016/2016 in W.P.(C) No.6108/2016
CM No.25084/2016 in W.P.(C) No.6122/2016

Allowed subject to just exceptions.

W.P.(C) Nos.6092/2016, 6108/2016 & 6122/2016

1. Counsel as above appear for the respondents and state that counter affidavits need not be filed because all relevant documents have been filed by the writ petitioners. Arguments have been heard.
2. Issue concerns implementation of the Assured Career Progression Scheme (ACP) as per which, those who had rendered twelve years service and had 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 was earned, subject to fitness, would be entitled to the second financial upgradation.
3. The writ petitioner Naresh Kumar in W.P.(C) No.6122/2016 joined service in CRPF as constable (GD) on July 20, 1973. He completed 12 years in service in the year 1985. He was detailed for JCC course in the year 1986 and was detailed for SCC pre-promotional course in the year 1994. He was promoted as a Head Constable on January 09, 1995. He completed 24 years service in the year 1997. He was detailed for SUOCC course in the year 2006 and was promoted to the rank of SI on October 13, 2006.
4. The writ petitioner Kishan Chand in W.P.(C) No.6092/2016 joined service in CRPF as constable (GD) on June 28, 1971. He completed 12 years in service in the year 1983. He was detailed for JCC course in the year 1985 and was detailed for SCC pre-promotional course in the year 1993. He was

promoted as a Head Constable in the year 1994. He completed 24 years service in the year 1995.

5. The writ petitioner D.Shreekandan Nair in W.P.(C) No.6108/2016 joined service in CRPF as constable (GD) on June 21, 1971. He was detailed for D&M course and was remustered in the driver cadre in the year 1982. He completed 12 years in service in the year 1983. He completed 24 years in service in the year 1995. He was promoted as Head Constable in the year 1997.

6. We would also note that all of the petitioners in the captioned writ petitions had sent legal notices to the respondents praying for grant of second financial upgradation benefits under the ACP scheme, but the same remained unanswered; except in the case of the petitioner in W.P.(C) No. 6108/2016, who was informed by way of letter dated March 18, 2016 that the benefit of second financial upgradation under the ACP scheme had been granted to him vide order dated March 18, 2016, but he has yet to receive the same.

7. We need to speak a few words.

8. 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.

9. The grievance in the writ petitions is to non-grant of the benefit of second financial upgradation upon completing twenty four years service.

10. 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

writ 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.

11. The said 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.

12. We note that on October 27, 2014 an office order had 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”

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

14. 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.

15. No costs

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JULY 18, 2016
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