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

+ W.P.(C) 1031/2016

SANJAY KUMAR

..... Petitioner

Represented by: Mr.S.S.Jain, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Represented by: Ms.Rajdipa Behura, Advocate for R-1
to R-3

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **28.07.2016**

1. The petitioner joined CISF as a Constable in the year 1994 and took voluntary retirement on July 31, 2014, after completing 24 years service. When he was serving, the ACP Scheme was notified and was applicable with effect from August 09, 1999. As per the scheme those who had not earned a promotion but otherwise were fit to be promoted were entitled to one financial upgradation after 12 years of service and if no second promotion was earned, a second financial upgradation upon rendering 24 years service. The petitioner has been granted the first financial upgradation. Since when petitioner was serving the MACP scheme had come into force, upon rendering 20 years service the petitioner became entitled to a second financial upgradation. The petitioner completed 20 years service on June 18, 2014, a little prior to he having sought voluntary

retirement. The petitioner claims that he is entitled to the second financial upgradation as a matter of right. We find that the petitioner has been screened for grant of second financial upgradation and the Screening Committee has rejected petitioner's entitlement to the second financial upgradation. The petitioner relies upon a Division Bench Judgment of this Court which we find is not applicable for the reason the decision notes that whereas penalties levied cannot be taken into account while deciding grant of benefit under MACP, but the benchmarks has to be met.

2. The petitioner has nowhere challenged the decision of the Screening Committee. The petitioner has not stated what is the benchmark for the second promotion, on account of which second financial upgradation is prayed for. Suffice it to state that the purpose of the ACP and the MACP scheme is to obviate the hardship caused due to non-availability of promotional posts. The MACP scheme envisages that the in-situ promotion would be given to the Government servant who cannot earn a promotion on account of non-availability of a post but otherwise meets the benchmark.

3. The writ petition is dismissed on account of lack of actionable pleadings.

4. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

JULY 28, 2016

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