

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

Decided on: 10th March, 2017

+ WP(C) 2870/2016

ASHOK SINGH OF CISF Petitioner

Through: Mr. Anubhav Mehrotra and Ms.
Meenu Sharma, Advocates.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Arun Bhardwaj with Mr.
Mimansak Bhardwaj, Advocates.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

% **INDIRA BANERJEE, J.**

1. This writ petition is directed against the alleged refusal of the respondent authorities to give to the petitioner the benefits of financial upgradations under the Modified Assured Career Progression Scheme (MACPS) for the Central Government civilian employees.
2. Assured Career Progression Scheme had been introduced in the CISF vide Circular No.16/2000 dated 18.02.2000 issued

by the CISF Head Quarters. This Circular was in accordance with instructions contained in Government of India, Ministry of Personnel, Public Grievances and Pensions.

3. Paragraph 2 (b) of the Circular dated 18.02.2000 provided for a maximum of two financial upgradations under the ACP Scheme during the entire service career of an employee.
4. An employee became entitled to financial upgradation on completion of 10 years of regular service provided he was found fit by a duly constituted screening committee.
5. The Sixth Central Pay Commission had in paragraph 6.1.15 of its report recommended a Modified Assured Career Progression Scheme. As per the recommendations, financial upgradation would be available to the next higher grade-pay whenever an employee had completed 12 years of continuous service in the same grade.
6. The Central Pay Commission, however, recommended that the employee was not to be given more than two financial upgradations in his entire career.
7. The Government of India considered and accepted the recommendations of the Sixth Pay Commission for introduction of a Modified Assured Career Progression

Scheme with certain modifications. The government decided to grant three financial upgradations at intervals of 10, 20 and 30 years of regular service.

8. Accordingly, an Office Memorandum No.35034/3/2008-Estt.(D), dated 19th May 2009 was issued framing the Modified Assured Career Progression Scheme (MACPS) for the Central Government civilian employees.
9. The MACPS was in supersession of previous Assured Career Progression Scheme and clarifications issued thereunder and was to be applicable to all regular Group A, Group B and Group C civilian employees of the Central Government.
10. The MACPS inter alia provide

“9. ‘Regular service’ for the purpose of the MACPS shall commence from the date of joining of a post in direct entry grade on a regular basis either on direct recruitment basis or on absorption / re-employment basis. Service rendered on adhoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning. However, past continuous regular service in another Government Department in a post carrying same grade pay prior to regular appointment in a new Department, without a

break, shall also be counted towards qualifying regular service for the purpose of MACPS only (and not for the regular promotions). However, benefits under the MACPS in such cases shall not be considered till the satisfactory completion of the probation period in the new post.

10. Past service rendered by a Government employee in a State Government / statutory body / autonomous body / Public Sector organization, before appointment in the Government shall not be counted towards Regular Service.

15. If a financial upgradations under the MACPS is deferred and not allowed after 10 years in a grade pay, due to the reason of the employees being unfit or due to departmental proceedings, etc. this would have consequential effect on the subsequent financial upgradation which would also get deferred to the extent of delay in grant of first financial upgradation.”

11. On a perusal of the provisions of the MACPS it is patently clear that the object of the scheme was to prevent stagnation of employees fit for promotion, who were not able to earn promotions due to lack of opportunities. However, if regular promotion has been offered but refused financial upgradation is not to be allowed.
12. The eligibility criteria for grant of the benefit of financial upgradations under the Modified Assured Career Progression Scheme for CISF personnel has been reviewed and notified by CISF Circular No.9/2016 notified by order

E42099/27/2009-Estt.1/23, dated 05.10.2016. The criteria for grant of MACPS is as follows:

- (i) One should have a minimum of three Good ACR/APAR which includes ACR/APAR preceding the year of DPC for granting financial upgradation.
 - (ii) Cases in which individuals could not get MACPS benefit due to currency of punishment at the time of holding of screening meeting for examining financial upgradation under MACPS shall be examined by the next screening committee.
13. Personnel considered for financial upgradation under MACPS benefits should be clear from departmental enquiries / vigilance angle. In the matter of disciplinary / penalty proceedings , grant of benefit under the MACPS shall be regulated under the provisions of appropriate disciplinary rules and instructions as contained in paragraph 18 of Annexures 1 of DoPT O.M. dated 19.05.2009. The changes were to be effective from the date of implementation of MACPS, that is 01.09.2008.
14. The petitioner was appointed to the CISF as Head Constable on 17.01.1985. After serving the CISF at various units, the petitioner was posted to the CISF 6th Res Battalion at Deoli

on 13.08.2014 on regular posting from the CISF unit, DAGP, Dulhasti.

15. The petitioner became due for first financial upgradation under the Assured Career Progression Scheme with effect from 09.08.1999. However, due to bad service records and penalties suffered by him, the petitioner was granted first financial upgradation under the ACP Scheme with effect from 19.08.2009. The granting of financial upgradation under the ACP scheme with effect from 19.01.2009 entails the effect of postponing his second financial upgradation benefits. The petitioner thus became due for second financial upgradation on 27.06.2014 subject to fulfilling all eligibility conditions for grant of financial upgradation.
16. A screening committee was duly constituted to grant the benefit of MACPS to employees of CISF posted at the 6th RES Battalion, Deoli. The Screening Committee found the petitioner, 'not yet fit' as he had earned below benchmark marks and had been awarded two minor penalties during the previous five years of his service.
17. After reporting to CISF 6th RES Battalion, Deoli, on 01.08.2014, the petitioner submitted an application addressed to the DIG, North Zone-I, for grant of ACP /

MACPS from the date of his entitlement. In reply, the Commandant, CISF 6th Battalion wrote a letter No.3423, dated 15.11.2014 intimating the petitioner the reasons for not allowing him the benefits of MACPS. The petitioner again submitted an application for grant of ACP / MACPS from the date of his entitlement.

18. It appears that by a communication dated 04.04.2015, the petitioner was informed that his candidature could not be considered by the Screening Committee as his service documents had been sent to the Zonal Head Quarter, Saket for disposal of his revision application. Later the case of the petitioner was considered by the Screening Committee for grant of second financial upgradation during the years 2015 and 2016. The petitioner was found 'not yet fit'. The grant of financial upgradation under the MACPS is not automatic. The entitlement of the petitioner to MACPS benefits was subject to clearance by Screening Committee.
19. Financial upgradation under the MACPS is not automatic but subject to the conditions mentioned above. The petitioner was not found fit by the Screening Committee for

financial upgradation under the MACPS. In view of the punishments and / or penalties and / or adverse entries in the Annual Confidential Reports, the petitioner was not given the benefits of ACPs.

20. In this writ petition, there is no challenge to the policy of awarding financial upgradation on the basis of past performance records. The petitioner never challenged the adverse entries entered in the records of the petitioner or the penalties imposed on the petitioner. The petitioner is apparently not eligible for financial upgradation under the MACPS.
21. The writ petition, therefore, fails and the same is dismissed.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

MARCH 10, 2017/dr