

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

Date of decision: 26th October, 2017

+ **W.P.(C) No. 7129/2012**

MANJU SIPAYYA Petitioner
Through: Mr. M. Dutta and Mr. I.C. Kumar,
Advocates
versus
DIRECTOR OF EDUCATION AND ORS Respondents
Through: Ms. Jyoti Janeja, Advocate for
DOE/Respondent No. 1
Mr. Sachin Chauhan, Advocate for
Respondents No. 2 & 3

+ **W.P.(C) No. 1692/2013 with CM APPL. No. 15706/2013**

MANJU SIPAYYA Petitioner
Through: Mr. M. Dutta and Mr. I.C. Kumar,
Advocates
versus
DIRECTOR OF EDUCATION AND ORS Respondents
Through: Mr. Anuj Aggarwal, ASC for
GNCTD with Ms. Niti Jain,
Advocate for DOE/ Respondent
No.1
Mr. Sachin Chauhan, Advocate for
Respondents No. 2 & 3

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

J U D G M E N T
(ORAL)

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1. In the above captioned first petition, petitioner who was appointed as an Assistant Teacher on 9th December, 1977, seeks implementation of

Assured Career Progression Scheme (hereinafter referred to as ACP Scheme) after completion of 24 years of service as on 1st September, 2002. In the above captioned second petition, petitioner seeks implementation of Modified Assured Career Progression Scheme (hereinafter referred to as MACP Scheme) after she has completed 30 years of service as on 1st September, 2008 and has consequently sought the arrears of differential salary etc.

2. Since both these petitions are interconnected, therefore with the consent of both the sides, they are taken up together and are being disposed of by this common judgment.

3. The facts which are not in dispute are that the petitioner was working in the respondent-school since 9th December, 1977 and was promoted to the post of Trained Graduate Teacher (Home Science) (hereinafter referred to as 'TGT') with effect from 1st August, 1978 and thereafter on 1st September, 1990, she was granted senior pay scale, which was later on revised with effect from 1st January, 1996 in terms of the 5th Central Pay Commission. It is the case of the respondents that petitioner was granted upgradation with effect from 1st November, 2011, due to lack of adequate promotional avenues and this was granted despite the fact that the Directorate of Education had not issued any guidelines for implementation of MACP Scheme in Private unaided schools.

4. It is the case of the petitioner that in terms of revision of pay scales of school teachers as on 12th August, 1987 (Annexure P/20), petitioner is to get financial upgradation within 12 years, which she had got in the year 1990. It is also the case of the petitioner that she had continued on the post of TGT for 12 years and so she was entitled to second financial

upgradation in the year 2002 which was not granted to the petitioner and it was belatedly granted to petitioner in the year 2011.

5. The precise case of petitioner is that the upgradation of the pay scale, which was given to the petitioner in the year 2011, ought to be preponed to the year 2002 and accordingly, the arrears of pay needs to be granted to petitioner.

6. On the contrary, learned counsel for respondent-school submits that grant of revised senior pay scale to petitioner in the year 1990 was equivalent to the pay scale of Post Graduate Teacher (hereinafter referred to as 'PGT') and so, she was not entitled to second financial upgradation. It is submitted that petitioner had got promotion in the year 1978, therefore, she was not entitled to the first financial upgradation. So, it is submitted that petitioner is not required to be granted any upgradation under the ACP Scheme. It is pointed out that under the MACP Scheme, though not implemented, she had already been granted the financial upgradation in the year 2011. It is also pointed out by learned counsel for respondent-School that MACP Scheme was brought into force in the year 2008, but in the case of respondent- school, it is not applicable as it an unaided private recognised school. Thus, it is submitted that these petitions deserve to be dismissed.

7. Upon hearing both the sides and on perusal of the ACP scheme as well as MACP scheme and the material on record, I find that in effect, petitioner has been granted three financial upgradations. As per the ACP scheme (Annexure P-2), this scheme is operational from 9th August, 1999 and first financial upgradation has to be granted after 12 years of regular service. It is the matter of record that petitioner who was promoted in the

year 1978, though had joined in the year 1977. Since within first 12 years of her service, she has got promotion, therefore, she was not entitled to any benefit under the ACP Scheme (Annexure P-2).

8. As regards the MACP Scheme is concerned, it came into force with effect from 1st September, 2008, and though, first respondent had, in its office Circular on 5th October, 2008, directed the schools to implement 6th Pay Commission recommendations under which the MACP Scheme came into existence but till date, first respondent has not issued any order or guideline for implementation of MACP Scheme in private unaided recognised schools. During the course of hearing, this was not disputed by learned counsel for first respondent. In such a situation, respondent-school is under no obligation to implement MACP scheme in question. However, respondent-school has admittedly granted financial upgradation of a higher pay scale with effect from 1st September, 2011 to the petitioner and after availing it, petitioner had retired in the year 2013. So, this Court is of the considered opinion that petitioner is not entitled to any relief under ACP Scheme or MACP Scheme and thus, finding no substance in these two petitions and application, they are dismissed, while leaving the parties to bear their own costs.

**SUNIL GAUR
(JUDGE)**

OCTOBER 26, 2017

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