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

+ **W.P.(C) 8649/2016**

RAJNATH RAM

..... Petitioner

Through Mr. Apoorva Tripathi, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Ms. Shubhra Parashar, Advocate
alongwith Inspector M. Vishwakarma, BSF.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

18.05.2017

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Having heard learned counsel for the parties, we are inclined to accept the submission made by the counsel for the petitioner that the respondents should pass a detailed order why the petitioner is not entitled to second financial upgradation under the Assured Career Progression Scheme (ACPS) or second and third financial upgradation under the Modified Assured Career Progression Scheme (MACPS).

2. The petitioner, it is accepted, had joined service as a direct recruit Constable (General Duty) on 1st January, 1984 and till today has been granted one financial upgradation, though he has rendered 34 years of

service.

3. The counter affidavit states that initially the petitioner was denied financial upgradation as he had not cleared the pre-promotional course. This issue, however, stands decided against the respondents by judicial decisions wherein it has been held that financial upgradation cannot be denied under the ACP Scheme/MACP Scheme in case the authorities themselves are to be blamed and had not sent the officers for pre-promotional courses. This position is accepted by the respondents in paragraph 7 of the counter affidavit.

4. The counter affidavit states that the petitioner had suffered four punishments, the first being in 1999, the second being in 2003 and the last two being orders of reprimand in 2008 and 2010. The second punishment was for “forfeiture of three years of service for the purpose of promotion”.

5. Issue would arise, whether in view of the punishment in 2003, ACP benefit could have been denied or postponed. If it was postponed, the respondents would have to examine from which date the petitioner is entitled to ACP/MACP benefit. The effect of punishment of severe reprimand issued in 2008 and reprimand issued in 2010 have to be also examined. Pertinently, we are in the year 2017.

6. We are in a way constrained to pass this order because the counter affidavit has not dealt with and examined the aforesaid aspects.

7. In these circumstances, we direct the respondent authorities to examine the case and claim of the petitioner afresh having regard to the clauses of ACP/MACP Scheme, the circulars and clarifications issued and pass a speaking and reasoned order within three months from the date a copy of this order is received by them. The petitioner is also given liberty to make a written representation within a period of one month from today to the authorities putting forward his case alongwith judgments and circulars.

8. The writ petition is disposed of in the aforesaid terms, without any order as to costs.

DASTI.

SANJIV KHANNA, J.

REKHA PALLI, J.

MAY 18, 2017

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