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

+ **W.P.(C) 7308/2018 & C.M. No. 27887/2018 (for exemption)**

**PREM DUTT, RETIRED HC/GD** ..... Petitioner

Through **Mr.O.P.Agarwal, Adv.**

versus

**UNION OF INDIA AND ORS.** ..... Respondents

Through **Ms.Amrita Prakash, CGSC.**

**CORAM:**

**HON'BLE MS. JUSTICE HIMA KOHLI**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

% **09.08.2018**

1. We have perused the averments made in the present petition. This is the second writ petition that the petitioner has filed against the respondents. Earlier hereto, the petitioner had filed W.P.(C)No.12095/2016, wherein the following order was passed:-

*“The respondents in terms of office order dated 27th February, 2017 have granted the benefit of first financial up gradation under the Assured Career Progression Scheme (ACPS for short) w.e.f. 9th August, 1999. This is correct as the petitioner had joined as Constable on 15th April, 1986 and had completed 12 years of service on the date when Assured Career Progression Scheme was introduced on 9th August, 1999.*

*The petitioner in terms of office order dated 27th February, 2017 has also been granted second financial upgradation on completion of 20 years of service on implementation of the Modified Assured Career Progression Scheme from 1st September, 2008 i.e. the date on which the scheme was implemented.*

*The contention of the petitioner is that second financial up gradation under the Modified Assured Career Progression Scheme should have been in the hierarchy of pay scales applicable in the CRPF.*

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*Our attention has been drawn to circular dated 15th April, 2011 issued by the Ministry of Home Affairs. The said circular refers to the Assured Career Progression Scheme and does not relate to financial up gradation under the Modified Assured Career Progression Scheme.*

*The Delhi High Court in several judgments has held that the financial up gradation under the Modified Assured Career Progression Scheme has to be to the next higher grade pay mentioned in the first Schedule Part A Section 1 of the Central Civil Services (Revised Pay) Rules, 2008 and to this extent, this Scheme modifies and is not similar to the Assured Career Progression Scheme.*

*In view of the aforesaid position, we feel that the order dated 27th February, 2017 grants the relief which the petitioner is entitled. No further order or directions are required to be passed, except calling upon the respondents to comply and implement the said order. The pension payment order would be revised within three months and arrears of pension and pay would be paid within two months, thereafter. In case there is delay beyond the said period, the respondents would pay interest @8% per annum from the date of this order.*

*Dasti.”*

2. Learned counsel for the respondents states that the Department has made compliances of the aforesaid order and issued a Signal dated 18.07.2018 stating *inter alia* that relief prayed for by the petitioner regarding benefit under the first ACP has already been sanctioned in his favour and the pension of the petitioner has also been revised. Further, the arrears payable of the first ACP w.e.f. 09.08.1999 to 03.04.2003 amounting to Rs.8,087/- has been remitted into the account of the petitioner on 09.05.2017. The Signal is taken on record.

3. Learned counsel for the petitioner states that he may be permitted to withdraw the present petition, while reserving the right of the petitioner to approach the respondents in the event, the matter relating to the grant of MACP, which is pending before the Supreme Court is decided favourably.

4. The petition is dismissed as withdrawn along with pending application. Liberty granted as prayed for.

**HIMA KOHLI, J**

**REKHA PALLI, J**

**AUGUST 09, 2018**

sr/gm