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

2 (SB)

+ **W.P.(C) 7011/2015**

BABLU MALLICK & ANR. Petitioners

Through: Mr Vijay Kumar and Mr R.C.
Sharma, Advocates.

versus

DIRECTORATE GENERAL, BORDER SECURITY
FORCE & ORS.

... Respondents

Through: Mr Jitesh Vikram Srivastava,
Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **11.10.2019**

REVIEW PET 222/2019 (for review of the order dated 31st October, 2018)

1. Learned counsel for the Petitioners/ Review Petitioners has drawn the attention of the Court to the two orders passed by the Division Benches of this Court – one is an order dated 7th December, 2015 in W.P.(C) No.5799/2015 (*K. Bangaru Naidu v Ministry of Home Affairs*) and the other is an order dated 26th April, 2016 in W.P.(C) No.3461/2016 (*Satish Kumar v Ministry of Home Affairs*) - to urge that the date for reckoning the availability of the benefit of the MACP Scheme, should be the date of joining the Basic Recruitment Training ('BRT').

2. The Court notices that in *K. Bangaru Naidu v Ministry of Home Affairs* (*supra*), this Court after discussing the relevant rules, as well as the

clarification dated 4th October, 2013, issued by the Department of Personnel & Training ('DoPT') and the Office Memorandum ('OM') dated 10th February, 2000, concluded in paragraph 8 of the order that "the Petitioners are entitled to the MACP Scheme benefit upon completion of ten years service reckoned from the date they reported for training, provided all of them were subsequently successful in clearing the Grade-III training of test at the first attempt". It must be noticed here that the Petitioners in the said case were also initially working as Head Constables/ Radio Operators ('HC/ROs') in the Border Security Force ('BSF')

3. In *Satish Kumar v. Ministry of Home Affairs* (*supra*) again, where the Petitioners were working as ASIs/Radio Mechanics in the BSF, this Court following the decision in *K. Bangaru Naidu v Ministry of Home Affairs* (*supra*), held that the said Petitioners were entitled to the MACP Scheme benefits from the date they reported for training.

4. The Court at this stage also notes that the initial prayer in the main writ petition was for a direction to the Respondents to grant the First ACP Scheme benefit with effect from the date that the Petitioners completed 12 years of regular service from the 'entry grade'. This Court in paragraph 4 of the order dated 31st October, 2018 held that it was not inclined to entertain the plea that the Petitioners were in fact not appointed as constables, but straightaway as Naik (MK) or HCs.

5. Learned counsel for the Petitioners now clarifies that the Petitioners are no longer maintaining that the date for reckoning the applicability of the

benefits should be the date of their appointment as HCs. He is confining his plea, as far as the present Petitioners are concerned, to the date for reckoning the applicability of the ACP from the date of their joining the BRT.

6. In the judgment dated 31st October, 2018, this Court referred to the other decisions, but not the aforementioned two decisions, which appear to be directly on the point.

7. Accordingly the order dated 31st October, 2018 is hereby recalled and the W.P.(C) No.7011/2015 is restored to file. The review petition is accordingly allowed.

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8. While Petitioner No.1 was appointed as Radio Operator against an existing vacancy of Naik (RO) again by way of direct recruitment on 17th August 1989, Petitioner No.2 was appointed as Radio Mechanic on 2nd August, 1988 again through direct recruitment. While Petitioner No.1 joined the BRT on 3rd October 1989, Petitioner No.2 joined the BRT on 9th January, 1989.

9. The short issue is whether the benefit of the ACP Scheme should be given to these Petitioners from the date they reported for BRT?.

10. In view of the aforementioned decisions of this Court in ***Bangaru Naidu v Ministry of Home Affairs*** (*supra*) and ***Satish Kumar v Ministry of Home Affairs*** (*supra*), the benefit of the ACP Scheme has to be given reckoning the 12 years service from the date of their reporting for the BRT,

considering that both Petitioners have successfully completed their training. Consequently, the MACP Scheme benefits will also be correspondingly worked out in case of both the Petitioners.

11. The appropriate orders, in respect of both Petitioners, now be issued by the Respondents within a period of eight weeks from today and the arrears paid within a period of twelve weeks.

12. The petition is disposed of in above terms. No costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

OCTOBER 11, 2019
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