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

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BHUP SINGH

W.P. (C) 8563/2016

..... Petitioner

Through: Mr. T. D. Yadav, Advocate.

versus

UNION OF INDIA THR. DIRECTOR GENERAL,
CRPF & ANR.

..... Respondents

Through: Mr Vivekanand, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

15.04.2019

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1. The Petitioner, who is with the Central Reserve Police Force ('CRPF') as Constable (CT)/ Cook, seeks directions to the Respondents to grant him the benefit of the third Modified Assured Career Progression ('MACP') Scheme with effect from 27th October, 2010 in the Grade Pay of Rs.4200 in the Pay Band of Rs.9300-34800.

2. The facts in brief are that the Petitioner joined the CRPF as Cook on 27th October, 1980. The post of Cook was re-designated as CT/ Cook in the year 2008. He was in January, 2013, transferred to the 27th Battalion, CRPF, and at the time of filing of the present petition he was working there.

3. An office order was issued in August, 2013, granting the benefit of the First, Second and Third MACP to the Petitioner with effect from 27th October, 2010 in the Grade Pay of Rs.4200 and in Pay Band of Rs.9300-

34800. However, this was modified on 10th May, 2014 by withdrawing the third MACP to the Petitioner in the Grade Pay of Rs.4200. The Petitioner's grievance is that his Grade Pay stood revised to Rs.4200, even prior to the grant of the MACP benefits. His Grade Pay cannot be Rs.2800, as is now sought to be indicated, when he has completed 30 years of service. He has given the example of a junior of his Madan Lal, who is also a CT Cook, drawing a Grade Pay of Rs.4200. The Petitioner has enclosed the copy of the pay slip of Madan Lal.

4. In the reply filed to the present petition, the stand of the Respondents is that in terms of the clarification issued by the Deputy Inspector General of Police ('DIGP'), Establishment on 8th April, 2013, all personnel appointed to the rank of Safai Karamchari and Water Carrier were eligible for MACP benefits in the Grade Pay of Rs.2400, 2800 and 4200 on completion of 10, 20 and 30 years of continuous regular service. Those who were in the ranks of Cooks / Barber / Washermen appointed prior to the ACP Scheme on completion of 12 years of regular service were also eligible for ACP benefits likewise. The financial benefits earned by them under the ACP Scheme was to be ignored for the purposes of grant of financial benefits under the MACP. It is stated that "in the cases of those Cook/Barber/Washer Man appointed prior to 01/01/2006 and earned two financial up-gradation under ACP scheme on completion of 24 years of regular service prior to 1st January, 2006, the second financial up-gradation granted to them in the pay scale of Rs.3050-75-3950-80-4590 which now carry Grade Pay Rs.1900/- cannot be ignored for the purpose of MACP. As such, the 1st ACP benefit granted to them in the pay scale of Rs.2750-70-3800-75-4400 (which now carry Grade

Pay of Rs. 1800/- may only be ignored at the time of allowing financial benefits under MACPs.”

5. Stating that the above had created an anomaly in the pay of senior and juniors, the matter was taken up with the Ministry of Home Affairs (‘MHA’). A clarification has been received on 4th March, 2016 stating that the Grade Pay of Rs.1900 had to be ignored to remove the anomaly. However, the Department of Personnel and Training (DOPT) did not agree. It returned the case saying:

"The request of MHA for ignoring of grant of ACP in the GP of Rs.1900/- does not appear to be feasible at this stage as the same is not in consonance with the MACP scheme. Further MACP scheme has been in vogue since 01/09/2008 and more than seven years have lapsed, any change in the basic concept of the MACPs will have serious ramifications including its practicability as the scheme has its applicability to all central Government civilian employees contravening the policy provisions will be discriminatory and violating article-14 of the Constitution of India in respect of all the category of employees whose cases are decided in accordance with the provision under the scheme". Hence, CT/Cook. Bhup Singh is not admissible for 3rd MACP with Grade Pay Rs.4200/-.”

6. It is sought to be accordingly explained that the Petitioner was not entitled to the Third MACP in the Grade Pay of Rs.4200 and, therefore, he has been granted the Second MACP with the Grade Pay of Rs.2400 and Third MACP with Grade Pay of Rs.2800 respectively.

7. The above explanation does not satisfactorily account for the Grade Pay of the Petitioner’s junior Madan Lal which is fixed at Rs.4200. The pay slip of the Petitioner has consistently indicated that his Grade Pay was fixed at

Rs.4200. Merely because the MACP Scheme has been in vogue since 1st September, 2008 and 7 years have lapsed, it would not be fair to subject persons like the Petitioner to unfair discriminatory treatment by revising the Third MACP benefit granted to him. Ironically, the very anomaly stated to be corrected by the Respondents, is being perpetuated by denying to the Petitioner the same grade pay that his junior Madan Lal is granted. If, as indicated in the reply itself, in terms of the OM dated 19th May, 2004 that the past cases should not be reopened, then in the Petitioner's case also, his grade pay cannot now be re-fixed at Rs.2800, for the purposes of the Third MACP. As rightly pointed out in the rejoinder, as per the letter dated 14th August, 2015, the Respondents have themselves clarified that the Petitioner was entitled to the Third MACP in the Grade Pay of Rs.4200 with effect from 27th October, 2010. This has not been denied by the Respondents, who have themselves enclosed the said signal as Annexure-R4. It is clarified that the anomaly that his junior getting higher grade pay has not been clearly brought out in this signal.

8. Likewise, another junior of the Petitioner, in whose case also, a similar anomaly has been created, namely, Constable /WC Mohan Singh has been granted the benefit by the signal dated 1st April, 2015. It is not clear why the Petitioner has not been accorded the same treatment.

9. This Court, accordingly issues a direction to the Respondents to grant the benefit of the Third MACP to the Petitioner with effect from 27th October, 2010 in the Grade Pay of Rs.4200 in the Pay Band of Rs.9300-34800 and pass the necessary orders within a period of 12 weeks from today. The

arrears should also be paid to the Petitioner by the said date, failing which the Respondents would be liable to pay simple interest @ 6% per annum on the arrears for the period of delay.

10. The petition is allowed in the above terms. No costs.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 15, 2019
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