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

+ **W.P.(C) 10403/2016**

ZILE SINGH

..... Petitioner

Through: Mr. O.P. Aggarwal, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Abhay Prakash Sahay, CGSC
with Mr. Suraj Kumar, Advocate for
UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **09.01.2019**

1. On 2nd April, 2018, the following order was passed:

“1. This case is taken up today as 27.3.2018 was declared as a court holiday.

2. Learned counsel for the petitioner states at the outset that in view of the averments made by the respondents in para 3 (c) of the counter affidavit wherein it has been stated that the petitioner was granted the second MACP with effect from 31.12.2008 and the third MACP w.e.f 10.10.2010, the relief prayed for in prayer clause (b) of the petition does not survive. As for the relief at prayer clause (a) of the petition with regard to grant of benefit of second financial up-gradation under ACP Scheme to the petitioner w.e.f. 03.10.2004 in the, scale of Sub-Inspector, learned counsels for the parties state that they may be permitted to place on record the relevant rules. The same shall filed by the

learned counsels for the parties within four weeks while exchanging copies thereof with each other.

3. List on 09.1.2019.”

2. The short issue therefore that remains to be determined is whether the Petitioner is entitled to the second financial up-gradation under the ACP Scheme w.e.f. 3rd October, 2004.

3. Admittedly, the Petitioner was in a low medical category, at the relevant time, which disentitled him to the grant of the second financial up-gradation.

4. The Court has perused the report of the Medical Board of 2002 which places him in that low medical category. At this point of time, it is not possible for the Court to go into the justification for the Medical Board placing him in the low medical category.

5. Learned counsel for the Petitioner sought to place reliance on a circular pertaining to the MACP which dispenses with medical categorisation as a ground of disqualification.

6. The Court notes that the basis for grant of a benefit under the MACP may be different from that under the ACP. The question before the Court is whether the Petitioner is entitled to the second financial up-gradation under the ACP Scheme for which he has to necessarily satisfy the conditions of the ACP Scheme.

7. Learned counsel for the Petitioner then referred to certain rules applicable to the ITBP and submitted that, by analogy, the Petitioner, who is in the BSF, should be granted similar relief.

8. The Court is unable to accept this submission. Clearly, those rules apply to the ITBP, and not to the BSF. It is, therefore, not possible for the Court to issue the directions to the Respondent to apply the ITBP Rules to the Petitioner.

9. The net result is that the Petitioner has not being able to persuade the Court that he is entitled to the second financial up-gradation under the ACP Scheme with effect from 3rd October, 2004.

10. The Court accordingly declines that relief. The petition is disposed of.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 09, 2019

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