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

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Decision delivered on: 05.10.2021

+ **W.P.(C) 8714/2021 & CM No. 27152/2021**

UNION OF INDIA

..... Petitioner

Through: Mr. Vikrant N. Goyal with Mr.
Jaswant Rai Aggarwal and Mr. Suraj
Kumar, Advocates.

versus

H M S TANWAR AND ORS.

..... Respondents

Through: Mr. Padam Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

1. This writ petition is directed against the order dated 10.04.2019, passed in O.A. No.461/2014 and order dated 03.10.2019 in R.A. No.179/2019, preferred in O.A. No. 461/2014.

1.1. To be noted, the aforementioned impugned orders have been passed by the Central Administrative Tribunal [in short, "the Tribunal"].

2. Mr. Vikrant N. Goyal, who appears on behalf of the petitioner/UOI, says that, the singular issue which arose before the Tribunal was, as to whether the benefit of Modified Assured Career Progression (MACP) Scheme ought to have been extended to the respondents [i.e., the original

applicants].

2.1 It is Mr. Goyal's contention that, since the Non-Financial Scale (NFS) grade was granted to the respondents, the benefit of the MACP Scheme was not payable to the respondents.

2.2. It is also Mr. Goyal's contention that, the Tribunal has inaccurately observed in paragraph 3 of the order dated 10.04.2019, that, the petitioner/UOI's [i.e., the original respondent] counter-affidavit, placed before it, was "silent" as to, whether the NFS was implemented at all, in the case of the respondents [i.e., the original applicants] appearing before us.

2.3. Mr. Goyal further submits that, a review application was filed by the petitioner/UOI, and [as noticed above], which was dismissed vide order dated 03.10.2019.

2.4. In support of his plea, Mr. Goyal has taken us through the counter-affidavit filed on behalf of the petitioner/UOI, before the Tribunal.

3. On the other hand, Mr. Padam Kumar, who appears on behalf of the respondent nos.1, 2, 4 and 6, emphatically, asserts before us that, NFS Grade was not implemented, *qua* the respondents, whom he represents.

3.1. The Tribunal seems to have observed likewise.

4. Evidently, while the counter-affidavit, filed before the Tribunal by the petitioner/UOI, does indicate that, the NFS was approved and/or granted, there does not seem to be an assertion, to the effect, that, it was actually paid to the respondents.

4.1. Besides this, according to us, the petitioner/UOI need not be aggrieved, as the operative part of the Tribunal's directions contained in the order dated 10.04.2019, effectively directed the petitioner/UOI to extend the MACP benefit, only if NFS grade was not implemented, *vis-a-vis* the

respondents.

4.2. For the sake of convenience, the relevant paragraph i.e., paragraph 6 of the order dated 10.04.2019 is extracted hereafter:

“6. The O.A. is accordingly disposed of directing that:

(a) If the applicants were not put into the NFS of Rs.8000-13500 (equivalent to Grade Pay of Rs.5400/- Pay Band 3), they shall be entitled to be extended the MACP,

(b) If on the other hand the order extending the benefit of NFS has been implemented and the applicants are being paid the salary of that pay scale, they shall not be entitled to any benefit of MACP.”

5. Having regard to the aforesaid, we find that, there is no merit in the writ petition.

6. The writ petition is, accordingly, dismissed. Consequently, pending application shall also stand closed. The case papers shall stand consigned to record.

RAJIV SHAKDHER, J

TALWANT SINGH, J

OCTOBER 5, 2021/mr

[Click here to check corrigendum, if any](#)