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

+ **W.P.(C) 1790/2020**

**RAJENDER PRASAD SHARMA** ..... Petitioner  
Through: **Mr.R.K Shukla, Adv.**

versus

**THE COMMISSIONER NORTH DELHI MUNICIPAL  
CORPORATION AND ORS.** ..... Respondents  
Through: **Mr.Tushar Sannu, Ms.Ankita  
Bhadouriya and Mr.Subham Jain,  
Adv. for North DMC  
Mrs.Bharathi Raju, Adv. for UOI**

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

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**06.04.2021**

1. The petition impugns the order dated 11<sup>th</sup> December, 2019 of Central Administrative Tribunal (CAT), Principal Bench, New Delhi of dismissal of O.A. No. 4134/2014 preferred by the petitioner.
2. The said O.A. was preferred, contending that the benefit of III Financial Upgradation under Modified Assured Career Progression Scheme (MACP) for the Central Government Civilian Employees granted to the petitioner had not been correctly computed. It was the contention of the petitioner before CAT, that (a) he was in Pay Band-2 with Grade Pay of Rs.5400/- and the MACP benefit was granted by moving him to Pay Band-3 but with the same Grade Pay of Rs.5400/-; (b) the petitioner, on trifurcation

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of erstwhile Municipal Corporation of Delhi, had been allocated to the respondent North Delhi Municipal Corporation (NrDMC), while some other batch mates of the petitioner had been allocated to South Delhi Municipal Corporation (SDMC) which had granted to them the benefit of MACP, by placing them in a Pay Band-3 with Grade Pay of Rs.6600/-.

3. CAT, in the impugned order has reasoned, that the benefit of MACP had been correctly computed and no fault can be found therewith. It has further been held that merely because SDMC has wrongly computed the benefit of MACP to those similarly situated as the petitioner, was no reason for directing the respondent NrDMC also, to commit the same mistake.

4. The counsel for the petitioner fairly agrees that the MACP has been correctly computed by placing the petitioner in Pay Band-3 with Grade Pay of Rs.5400/-. He however raises the same argument as urged before CAT i.e. of the petitioner being entitled to be treated similarly as his batchmates allocated to SDMC.

5. Once the counsel for the petitioner also admits that the MACP granted to the petitioner has been correctly computed, no error can be found in the reasoning given by CAT, of denying similar treatment to the petitioner as his batchmates in SDMC, who had been wrongly conferred the MACP benefit more than they were entitled to. In application of Article 14 of the Constitution of India, there is no concept of negative equality and merely because other similarly placed persons as the petitioner have been granted something more than they are entitled to in law, would not entitle the petitioner also thereto, till the petitioner makes out an entitlement thereto in

law. Reference in this regard may be made to *Chandigarh Administration Vs. Jagjit Singh* AIR 1995 SC 705, *State of Orissa Vs. Mamata Mohanty* (2011) 3 SCC 436, *Basawaraj Vs. The Spl. Land Acquisition Officer* (2013) 14 SCC 81, *Dalip Singh Vs. State of Haryana* (2019) 11 SCC 422, *Union of India Vs. M.K. Sarkar* (2010) 2 SCC 59, *Vishal Properties (P) Ltd. Vs. State of Uttar Pradesh* (2007) 11 SCC 172, *State of Haryana Vs. Ram Kumar Mann* (1997) 3 SCC 321, *Fuljit Kaur Vs. State of Punjab* (2010) 11 SCC 455, *Union of India Vs. International Trading Co.* (2003) 5 SCC 437 and *Anand Buttons Ltd. Vs. State of Haryana* (2005) 9 SCC 164.

6. The counsel for the respondent NrDMC states that in SDMC, the batchmates of the petitioner have not been granted anything different from what has been granted to the petitioner.

7. However we are not called upon to enter into the said controversy since the petitioner, as per his own admissions, is not entitled to the relief claimed.

8. There is no merit in the petition.

Dismissed.

**RAJIV SAHAI ENDLAW, J**

**AMIT BANSAL, J**

**APRIL 6, 2021**

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