



W.P.No.3733 of 2017

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.3733 of 2017

L.Kumar

... Petitioner

Vs.

1.Union of India
rep. by the Secretary,
Ministry of Home Affairs,
New Delhi.

2.The Director General,
Central Industrial Security Force,
CISF Head Quarters,
Block No.13, CGO Complex,
Lodhi Road,
New Delhi.

3.The Inspector General/Southern Sector,
CISF, Southern Sector,
Head Quarters,
War Memorial,
CH.P.T. Chennai – 600 009.



W.P.No.3733 of 2017

WEB COPY

4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone,
D Block, Rajaji Bhavan,
Besant Nagar,
Chennai – 600 090.

5.The Senior Commandant,
Central Industrial Security Force Unit,
Chennai Port Trust,
Chennai – 600 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to grant financial upgradation under the Modified Assured Career Progression Scheme with effect from the petitioner's eligibility from 2005, and the second MACP from 2015 and pass orders on the representation of the petitioner dated 19.09.2016 and to pay increments from April 2015 and grant all consequential benefits.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.K.Subbu Ranga Bharathi
CGSC



W.P.No.3733 of 2017

WEB COPY

ORDER

This Writ Petition has been filed seeking for a direction to the respondents to grant financial upgradation under the Modified Assured Career Progression Scheme with effect from the petitioner's eligibility, i.e., from 2005, and the second MACP from 2015 and pass orders on the representation of the petitioner dated 19.09.2016 and to pay increments from April 2015 and grant all consequential benefits.

2.It is the case of the petitioner that the petitioner was recruited as a Constable in the Central Industrial Security Force on 23.04.1985. After having completed the training successfully for 9 months, he was inducted in the force. The petitioner is entitled to ACP benefits after completion of 12 years with effect from the year 1997. but, he was given the ACP benefit only on September 2008. Due to this delay, subsequently benefit under MACP has been postponed. He was entitled for the MACP benefits due



W.P.No.3733 of 2017

from 2015 onwards. Therefore, he made a representation to the 5th respondent for considering the MACP benefit after completion of 30 years based on the recommendation of the VI - Central Pay Commission. Once again he made a representation to the 5th respondent on 19.09.2016. Further, it is requested to review the 3rd MACP as per Force Head Quarters Circular No.09/2016, dated 05.10.2006 which is as follows:

“Kindly refer to Do PT Office Memorandum No.35034/3/2008 - Estt (D) dated 19.05.2009 and this Directorate letter dated 08.01.2014 on MACP

2.Following the Sixth Central Pay Commission recommendations. Central Govt, granted 3 financial upgradations under MACP Scheme at the interval of 10.20 & 30 years of regular service. This Scheme was issued vide Do PT Office Memorandum dated 19.05.2009. Accordingly. MACP Scheme was implemented in CISF w.e.f. 01.09.2008.

3.While granting MACP benefits the criteria fixed initially was similar to promotional norms. Subsequently requirement of PCC (Promotion Cadre Course) and SHAPE-1 were dispensed with vide this Directorate letter No.(117) dated 28.07.2009 and No.(575) dated 05.06.2012 respectively. Later on vide CISF Circular No.01/2014 dated 08.01.2014 clarification was issued dispensing with consequent MACP benefits. However the consequential impact of disciplinary



W.P.No.3733 of 2017

proceedings on granting further financial upgradation under MACP Scheme was retained. Also the requirement of meeting the minimum score of 50 (for General category) and 40 (for SC/ST category) as applicable for promotions were also retained.

4.Many representations have been received at this Directorate against applying the minimum score criteria for granting MACP benefits as applicable for promotions, which also took into account deduction of marks for punishments awarded to the individual for the relevant period.

Accordingly, this matter has been examined, in accordance with the Do PTO.M. dated 19.05.2009, and the following criteria has now been fixed

(i)One should have a minimum of 3 Good ACRs/APARs which includes the ACR/ APAR of the year proceeding the year of DPC for granting financial upgradation.

(ii)The system of assigning marks with respect to particular ACR APAR granting is now dispensed with

(iii)Major/Minor punishments in the relevant period for FUGs under MACP shall not be taken into consideration (only ACR/APR will be considered as per para-4 (i) above) by the Screening Committee except currency of punishment.

(iv)Cases, in which individuals could not get the MACP benefit due to currency of punishment at the time of holding of Screening Committee Meeting for examining financial upgradation under MACP Scheme, shall be examined by the next Screening Committee.



W.P.No.3733 of 2017

WEB COPY

(v) Personnel considered for financial upgradation under MACP benefits should be clear from DE/Vigilance angle. In the matter of disciplinary or penalty proceedings, grant of benefit under the MACPS shall be regulated under the provisions of appropriate disciplinary rules and instructions as contained in Para-18 of Annexure-1 of Do PT OM dated 19.05.2009.

(vi) Cases in which there was any delay in granting financial upgradation under ACP/MACP Scheme due to departmental proceedings (as mentioned in Para-18 of Annexure-1 of Do PT O.M. dated 19.05.2009), will continue to have a consequential impact on grant of subsequent FUGs under MACP Scheme to the same extent. Such cases need not be reviewed.

(vii) These changes shall be effective from the date of the implementation of the MACP Scheme i.e., 1st September 2008. As far as old cases are concerned, only those old cases will be reviewed in which MACP benefits could not be granted to the affected personnel. Those cases in which individuals have already got the MACP benefits will not be reopened for reassessment with respect to the new criteria as contained in this Circular and they will be treated as settled.

5. In view of the above, all Sectors shall review the cases of eligible personnel who could not get the benefit of MACP due to application of different criteria which was in existence before the issue of revised instructions as contained in this Circular.



W.P.No.3733 of 2017

WEB COPY

6. These criteria will be subject to such amendments as may be issued by Govt of India Do PT from time to time.

7.The cut off clase for considering cases as per directions given above will be upto 24.07.2016 i.e., only those cases are to be reviewed which occurred before and upto 24.07.2016 only.

8.This issues with the approval of DG-CISF.”

3.Further, in a batch of Writ Petitions filed by the CISF Personnel in W.P.Nos.22111 etc., of 2004, this Court on 04.12.2006 was pleased to pass the following orders:

“12. In the light of the instructions Circulars as referred above and in view of the assertion of the petiteness regarding their eligibility and qualification within the prescribed period, we are of the view that the respondents are not justified in initiating recovery proceedings, merely on the basis of certain observations of the Internal Audit Party of the Ministry of Home Affairs. On the other hand, the particulars furnished/ referred above amply support the case of the petitioners.



W.P.No.3733 of 2017

WEB COPY

13. Under these circumstances, the impugned orders/proceedings in all these writ petitions are quashed and a direction is issued to the respondents to grant financial upgradation under the Assured Career Progression Scheme with effect from the date of the petitioner's eligibility and grant them all consequential benefits. The writ petitions are allowed on the above terms.”

4. Therefore, the petitioner is entitled to benefit of the order of this Court dated 04.12.2006. The scale of pay was not revised till date due to the punishment awarded in the year 1989. The Batch mates of the petitioner are getting the pay of Rs.44,900/-pm but the petitioner is getting the pay of Rs.41,000/- p.m. Hence, this Writ Petition.

5. The learned Central Government Standing Counsel for the



W.P.No.3733 of 2017

respondents would submit that the Government of India, Ministry of

Personnel, Public Grievances and Pension (Dept of Personnel & Training) has introduced the Assured Career Progression Scheme (ACP) for the Central Government Civilian Employees vide its Office Memorandum No.35034/1/97-Estt (D) dated 09.08.1999 and the same has become operational from the date of issue of the above Office Memorandum. As per the orders issued in the abovesaid Office Memorandum, the 1st Financial Up-gradation under the Assured Career Progression Scheme was due on completion of 12 years. Accordingly, the 1st Financial Up-gradation was granted to the petitioner w.e.f. 01.12.2000 in the pay scale of Rs.3200-85-4900/- dated 27.04.2002. The petitioner was granted the 1st Financial Upgradation w.e.f. 01.12.2000 instead of 09.08.1999 causing a delay of 01 year 03 months and 23 days because of the currency of punishment awarded to the petitioner dated 30.11.1999.



W.P.No.3733 of 2017

WEB COPY

6. According to the Sixth Central Pay Commission for introduction of a Modified Assured Career Progression Scheme and accepted the same with further modification to grant three financial up-gradations under the said Scheme at the intervals of 10, 20 and 30 years of continuous regular service as per the Office Memorandum, dated 19.05.2009 by the office of the DoPT. Therefore, the 2nd MACP was granted to the petitioner w.e.f. 01.09.2008 in the pay scale of Rs.5200- 20200, Grade Pay Rs.2800/- vide proceedings dated 21.03.2010. Therefore, the petitioner is also eligible for 3rd MACP on completion of 30 years of service from the date of his initial appointment. Meeting of the Screening Committee for the grant of financial benefits under MACP Scheme upto the rank of HC/GD maturing between April 2015 to September 2015 was conducted at CISF group Head Quarters, Cochin on 03.02.2015 and 04.02.2015. In the said meeting, the petitioner was found not yet fit with the reasons that the 1st was ACP delayed for one year three months and 23 days due to the currency of punishment. Hence,



W.P.No.3733 of 2017

the petitioner was found fit for the 3rd financial upgradation under MACP only on 16.08.2016. Accordingly, the 3rd MACP was granted to the petitioner with effect from 16.08.2016 with a grade pay of Rs.4,200 dated 25.04.2016. The petitioner submitted a representation dated 19.09.2016 to review the MACP, the claim of the petitioner was rejected dated 27.02.2017.

7.The learned counsel for the respondents would submit that the 1st ACP was granted to the petitioner with effect from 01.12.2000 (delayed for 1 year 3 months 23 days due to currency of punishment awarded vide F.O.No.(7095) dated 30.11.1999, the 2nd MACP was granted to the petitioner on 01.09.2008 after completion of 20 years of service and the 3rd MACP after completion of 30 years has been granted on 16.08.2016. Therefore, there is no delay in granting the financial upgradation to the petitioner except the currency of punishment.

8.On a perusal of the records, it is seen that after completion of 12



W.P.No.3733 of 2017

years of service by the petitioner, the 1st Financial Upgradation under the Assured Career Progression Scheme has been granted to the petitioner with effect from 01.12.2000 instead of 08.09.1999 in the pay scale of Rs.3200-85-4900 dated 27.04.2000. The 1st ACP was delayed for 1 year 3 months and 23 days only due to the currency of the punishment awarded to the petitioner dated 30.11.1999. The 2nd and 3rd Financial Upgradation have been granted to the petitioner periodically. Hence, there is no delay in granting Financial Upgradation except the currency of punishment. Hence, this Writ Petition is dismissed as devoid of merits. No costs.

17.10.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

1. The Secretary,
Union of India
Ministry of Home Affairs,
New Delhi.

12/15



W.P.No.3733 of 2017

WEB COPY

2.The Director General,
Central Industrial Security Force,
CISF Head Quarters,
Block No.13, CGO Complex,
Lodhi Road,
New Delhi.

3.The Inspector General/Southern Sector,
CISF, Southern Sector,
Head Quarters,
War Memorial,
CH.P.T. Chennai – 600 009.

4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone,
D Block, Rajaji Bhavan,
Besant Nagar,
Chennai – 600 090.

5.The Senior Commandant,
Central Industrial Security Force Unit,
Chennai Port Trust,
Chennai – 600 001.



WEB COPY



W.P.No.3733 of 2017

V.BHAVANI SUBBAROYAN, J,

mps

W.P.No.3733 of 2017



WEB COPY



W.P.No.3733 of 2017

17.10.2023