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

% *Date of Decision: 21st February, 2023*

\+ W.P.(C) 6419/2021

SURESH CHAND ..... Petitioner

Through: Mr. Shanker Raju, Mr. Nilansh Gaur, Ms. Anubha Bhardwaj and Mr. Rajesh Sachdeva, Advocates.

versus

JAWAHARLAL NEHRU UNIVERSITY ..... Respondent

Through: Ms. Ginny J. Rautray and Ms. Tanvi Bansal, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. By the present writ petition, Petitioner seeks setting aside of the internal audit decision of the Respondent/Jawaharlal Nehru University (hereinafter referred to as 'JNU') dated 27.03.2014, communicated vide letter dated 04.11.2020 whereby 2nd financial upgradation in pay scale Rs.9300-34800 in Grade Pay of Rs.4600/- has been denied to the Petitioner w.e.f. 24.12.2012.

2. Factual score is in a narrow compass. Petitioner was appointed on Direct Recruitment as Dresser-cum-Compounder with JNU in the pay scale of Rs.1200-2040, which is an isolated cadre. On 21.01.1998, Petitioner was placed in the personal scale of Rs.1640-2900 w.e.f. 24.12.1992 which is the date of his initial appointment.

3. On 11.02.1998, pay scale of Rs.1640-2900 was treated as 1st financial upgradation and therefore, a recommendation was given by the Administrative Branch of JNU on 18.03.2014 to grant the

Petitioner 2nd financial upgradation under MACP in PB-2 with Grade Pay of Rs.4600/- w.e.f. 24.12.2012, when the Petitioner completed 20 years of service.

4. In the meantime, pay scale of Rs.1640-2900 was revised to pay scale of Rs.5500-9000 w.e.f. 01.01.1996 pursuant to 5th CPC recommendations and thereafter revised to pay scale of Rs.9300-34800 PB-2 with Grade Pay of Rs.4200/- w.e.f. 01.01.2006 under 6th CPC recommendations. Since then, Petitioner has continued to be in the said pay scale, save and except, for pay revision under the 7th CPC.

5. Despite the recommendation made in favour of the Petitioner on 18.03.2014, 2nd financial upgradation was not granted to the Petitioner and instead he was informed that he was not entitled to the upgradation on account of an internal audit. Copy of the internal audit Note was made available to the Petitioner under covering letter dated 04.11.2020, from which the Petitioner learnt that objection was raised to the grant of personal pay scale of Rs.1640-2900 at par with Assistant cadre on the ground that this was not in consonance with the pay scales proposed in the Appendix to the Agenda for the Finance Committee meeting held on 09.04.2001 and approved by the Vice Chancellor on 25.04.2001, whereby the OUM scale 'C' of Dresser-cum-Compounder was Rs.1400-2300 and SUM scale was Rs.1640-2900 and which the Petitioner had already availed.

6. Aggrieved by denial of the 2nd financial upgradation under MACP Scheme, Petitioner filed the present writ petition. It is contended on behalf of the Petitioner that he was appointed on 24.12.1992 in the pay scale of Rs.1200-2040. Since the post of Dresser-cum-Compounder was an isolated post he was given parity with Assistant and placed in pay scale of Rs.1640-2900 as a scale

personal to him, without any change in designation or addition of new qualifications or change in the job profile. When ACP Scheme was introduced by the Government of India on 09.08.1999, pay scale of Rs.1640-2900 was treated as OUM i.e. 1st financial upgradation under the ACP. After the 5th and 6th CPC recommendations the pay scale of Rs.1640-2900 was revised to PB-2 with Grade Pay of Rs.4200/-. Therefore, on implementation of the MACP Scheme, Petitioner became entitled to 2nd financial upgradation in Grade Pay of Rs.4600/- in PB-2, on completion of 20 years of regular service in the year 2012. On 18.03.2014, Administrative Branch of JNU had recommended upgradation in Grade Pay Rs.4600/-, however, on account of an audit objection the same was not implemented. The impugned action is in teeth of the MACP Scheme, which provides 2nd financial upgradation on completion of 20 years of service, when an employee has spent 10 years in one Grade Pay and since Petitioner had received one upgradation in 1998, there was no reason for denying 2nd financial upgradation to him.

7. It is submitted that the stand of JNU that Petitioner was entitled to an intermediary scale of Rs.1400-2300 instead of Rs.1640-2900 is wholly misconceived. Petitioner was placed in Rs.1640-2900 since the post of Dresser-cum-Compounder was an isolated post and therefore, parity was given with the Assistant. Moreover, the scale was personal to the Petitioner, which is evident from a plain reading of the letter dated 21.01.1998, by which the Petitioner was granted the pay scale of Rs.1640-2900 and cannot be treated as SUM, applying the scales in the hierarchy for Dresser-cum-Compounder, which did not exist at that stage.

8. Counsel urges that the case of the Petitioner is covered by clarification No. 35 dated 03.10.2001 with respect to the ACP Scheme

which states that placement in higher scale of pay without change in designation or adding new qualifications for holding the post in a higher grade, not specified in the hierarchy of the post under the Recruitment Rules, will not be treated as financial upgradation. According to the Petitioner, this issue arose for consideration before this Court in ***Sis Kaur v. Jawaharlal Nehru University, 2015 SCC OnLine Del 11975.*** In the said case, the Petitioner was appointed in the pay scale of Rs.2000-3500 on 01.09.1993 and upgraded to Rs.2200-4000 under the Scheme for upward movement. Under the 5th CPC, the pay scale was revised to Rs.8000-13500. Petitioner represented for grant of second MACP in PB-3 with Grade Pay Rs.6600/- on completion of 20 years of service, without any promotion or upgradation. Respondent, on the other hand, opposed the relief on the ground that the grant of scale of Rs.2000-3500 instead of Rs.1640-2900 was her 1st financial upgradation and since she had been granted two pay scales i.e. Rs.2000-3500 and Rs.2200-4000 from 01.09.1993, though the core scale was Rs.1640-2900, Petitioner was entitled to third upgradation under MACP only after 30 years of regular service. The Court disagreed with the Respondent and relying upon clarification No. 35 to ACP Scheme held that the grant of pay scale of Rs.2000-3500 cannot be treated as a financial upgradation as no new qualification was required while grant of the said scale and nor were there any changes in the responsibilities and duties of the post. Therefore, according to the Court, Petitioner was entitled to 2nd financial upgradation after completion of 20 years of service as per the provisions of the MACP Scheme.

9. Stand of the Respondent, *per contra,* is that Petitioner was appointed as Dresser-cum-Compounder in the pay scale of Rs.1200-2040 and thereafter placed in the upgraded pay scale of Rs.1640-2900

w.e.f. 24.12.1992. The pay scale was revised to Rs.5500-9000 under 5th CPC w.e.f. 01.01.1996 and to Pay Band Rs.9300-34800 with Grade Pay of Rs.4200/- w.e.f. 01.01.2006 under 6th CPC. It is true that the Administrative Branch of the Respondent had recommended grant of 2nd financial upgradation to the Petitioner under the MACP Scheme in PB-2 with Grade Pay of Rs.4600/-, however, the same was not granted on account of an internal audit bringing out that the OUM scale of Dresser-cum-Compounder is Rs.1400-2300 and SUM scale is Rs.1640-2900 and since both have been given to the Petitioner, he is entitled only to 3rd financial upgradation under MACP Scheme after completion of 30 years from the date of his initial appointment. In view of this, the proposal was not implemented.

10. It is contended that UGC vide its letter dated 05.10.1999 had observed that while implementing OUM Scheme approved by UGC in 1985, University had violated the guidelines as the 1st OUM Scales were not the pay scales of promotional post in the normal hierarchy and were much higher. UGC directed the University to ensure that the core pay scales of the posts should be the scales applicable to corresponding posts in Central Government. UGC vide its letter dated 14.07.2000 had communicated to the Registrars of all Central Universities that in case any University takes a decision on financial matters which is contrary to UGC's advice/instructions, the amounts involved will be deducted from the entitlements of the University concerned for financial assistance and recovery shall be made from the salary of the person responsible for taking the said illegal decision.

11. It is submitted that pursuant to another letter of the UGC dated 14.03.2001, a meeting was held on 31.03.2001 between officials of MHRD, Vice-Chancellor of JNU and UGC officials etc. and it was proposed to implement 5th CPC recommendations and ACP Scheme in

a manner that post 08.04.1998, all promotions/career growth schemes shall stand discontinued and Government scales shall be applicable in the Universities. All those recruited or promoted after 08.04.1998 will be governed by ACP Scheme and approved Government pay scales. In the same meeting, Core/OUM/SUM scales were also proposed to be implemented in JNU for non-teaching employees and this included the post of Dresser-cum-Compounder, where the recommended core pay scale was Rs.1200-2040 and OUM was Rs.1400-2300, while the SUM scale was Rs.1640-2900. In light of the hierarchy of scales proposed for the post of the Petitioner, it is impermissible for JNU to grant 2nd financial upgradation under the MACP Scheme on completion of 20 years in 2012 as that would be contrary to the directions of UGC.

12. Insofar as the judgment in ***Sis Kaur (supra)*** is concerned, counsel for JNU submits that the facts of the said case are distinguishable. In the said case, Petitioner was appointed in the pay scale of Rs.1640-2900 as Senior Technical Assistant and the core pay scale of the said post was later changed to Rs.2000-3500 and in this background, Petitioner was granted the upgraded scale from his date of appointment. Respondent was considering the said placement as upgradation for MACP, which was negated by the Court holding that the grant of pay scale of Rs.2000-3500 to Sis Kaur was not personal to her as she was to be treated as appointed in the said scale and therefore could not be counted/adjusted for the purpose of benefit under the MACP Scheme.

13. I have heard the learned counsels for the parties and examined their respective contentions.

14. The undisputed facts are that Petitioner was appointed as Dresser-cum-Compounder in the pay scale of Rs.1200-2040, which was an isolated post. In terms of Notification dated 29.04.1997 and as

per irrevocable option exercised by the Petitioner, vide Order dated 21.01.1998, JNU placed the Petitioner in the pay scale of Rs.1640-2900 w.e.f. 24.12.1992. The pay scale was granted notionally upto 04.02.1996 and with financial benefits from 05.02.1996. Relevant part of the letter is as follows:-

> *"In terms of Notification No.WS&CRU bearing No.WSCR/97 dated 29.4.97 and also as per the irrevocable option exercised by him, Sh.Suresh Chand, Dresser-cum-Compounder has been placed in the personal scale of Rs.1640-2900 w.e.f. 24.12.92.*
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> *The pay of Shri Suresh Chand shall be fixed as per rules of the University.*
>
> *The above placement shall be notional upto 4.2.96 and with financial benefits from 5.2.96.*
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> *This issues with the approval of the competent authority."*

15. The pay scale of Rs.1640-2900 was granted on parity with the post of Assistant since Dresser-cum-Compounder was an isolated post in JNU. This pay scale was revised from time to time and under 6th CPC it was Pay Band Rs.9300-34800 with Grade Pay Rs.4200/- w.e.f. 01.01.2006. Since Petitioner was appointed on 24.12.1992, he completed 20 years of service in 2012 and the Administrative Cell of JNU recommended the grant of 2nd financial upgradation in Grade Pay of Rs.4600/- in PB-2 w.e.f. 24.12.2012, treating the grant of pay scale of Rs.1640-2900 as OUM.

16. Stand of JNU in denying 2nd financial upgradation under MACP Scheme to the Petitioner is primarily based on the UGC letters, as aforementioned. Having examined the arguments of the parties, this Court is unable to agree with the stand adopted by JNU for the reasons I shall advert to hereinafter.

17. Insofar as the UGC's letter dated 05.10.1999 is concerned, no doubt, as rightly contended by counsel for JNU, there were directions that the core pay scales of the posts would be the pay scales applicable

to corresponding posts in the Central Government, however, what is overlooked is that in the same letter it was provided in para 4(viii) that no promotion/career growth schemes will be operated in JNU after 08.04.1998 and in case schemes have been introduced after 08.04.1998, this will not be taken into account for determining the pay of an employee on 01.01.1996. It was also provided that all future recruitments will take place in the approved core scales as existing in the Central Government, however, the OUM scales granted to the existing incumbents will be personal to them. The intent was clearly to ensure that employees who had been placed in higher scales should not be adversely affected by reduction of the pay scales. This intent is reinforced by perusing the proposal which was discussed in a meeting held on 31.03.2001 between Secretary, MHRD, Vice-Chancellor, JNU and Delhi University, Chairman, UGC and other officials and in the meeting of Finance Committee held on 09.04.2001, which was finally approved. The decisions taken for implementing the 5th CPC Recommendations and the ACP Scheme in JNU are culled out as follows:-

> *"(i) After 8.4.98 all promotions/Career Growth Scheme stand discontinued and the Govt. scales/promotions/rules shall be applicable in the University.*
>
> *(ii) All those recruited/promoted after 8.4.98 will be governed by the ACP scheme and the approved Government pay scales;*
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> *(iii) Only two upward movements in the total span of service, if already allowed till 8.4.98, will be regularised against ACP schemes and there will be no further upward movement for those who have received two upward movement till 8.4.98.*
>
> *(iv) In cases, till 8.4.98, where distinct University hierarchy/line of promotion existed, the replacement scales shall be in accordance with that. Where no University hierarchy/line of promotion existed, the replacement scales shall be the approved government scales. The replacement scales so granted if different from government scales shall be given as personal to the existing incumbents.*
>
> *(v) Hereafter the pension shall be finally regulated in accordance with the above said implementation.*

> *(vi) The pay scales proposed in the Annexure to the Agenda for the Finance Committee meeting held on 9.4.2001 and placed below shall be implemented."*

18. From the aforementioned guidelines, it emerges that post 08.04.1998, all promotions/career growth schemes operating in JNU were to discontinue and for the sake of uniformity, the Government scales were to apply. But what cannot be overlooked is the carve out by way of Clause (iv), wherein it is clarified that wherever distinct University hierarchy/line of promotion existed till 08.04.1998, which was the cut-off date for implementation of Government pay scales, the replacement scales shall be in accordance with the University hierarchy and only where no such hierarchy existed, the Government scales would be applicable. To obviate any doubt with respect to pay scales granted to the incumbents prior to 08.04.1998, it was clarified that replacement scales granted, if different from Government scales shall be personal to the existing incumbents. The common thread that runs in the directions issued by the UGC by its letter dated 05.10.1999 and the proposal made and approved subsequently, is that the UGC did not intend to undo what had been done prior to 08.04.1998 realizing that this would adversely impact the employees who had been drawing higher pay scales for a considerable length of time. In the present case, as a matter of record, Petitioner was granted the pay scale of Rs.1640-2900 by an order dated 21.01.1998 w.e.f. 24.12.1992. Therefore, clearly the case of the Petitioner falls in the category of pay scales granted prior to 08.04.1998 and by virtue of Clause (iv) will be protected as a personal scale to him.

19. In fact, this issue as to whether JNU can reduce the pay scale although the employee is drawing a higher pay scale pursuant to earlier orders passed by JNU, is no longer *res integra.* A similar issue

arose before this Court in a batch of petitions in W.P.(C) 1050/2000 and others titled ***Bam Dev Chhetri and Ors. v. Jawaharlal Nehru University and Anr., 2013 SCC OnLine Del 4705.*** Petitioners in the said case were Caretakers employed with JNU and were initially appointed in the pay scale of Rs.950-1500. Subsequently, they were placed in a higher pay scale of Rs.1350-2200, pursuant to various orders passed by JNU through its Executive Council. On the directions of UGC, pay scale of Rs.1350-2200 was sought to be reduced to Rs.950-1500 on the ground that grant of higher pay scale to Caretakers was without the approval of MHRD and consent of UGC and was creating an anomaly in other Departments. Interestingly and significantly, the Court relied on the letter dated 05.10.1999, more particularly, Clause (viii) of paragraph 4 thereof, as extracted hereinabove and letter dated 10.04.1998 and held as under:-

> *"6. A reading of the aforesaid communications of the UGC brings out the following admitted facts:-*
>
> *(i) By its letter dated 8.4.1998 it was specifically stated that the non-teaching employees of respondent no. 1/University were to be given pay scales as specified in annexure to the letter, and which annexure gives the new pay scales as per the Fifth Pay Commission to care takers in the existing core scale of pay of Rs. 1350-2200/- the higher pay scale (pursuant to Fifth Pay Commission recommendations) of Rs. 4500-7000/-.*
>
> *(ii) The issue arose as to the fact that actually care takers of Central Government did not have the core scale of pay of Rs. 1350-2200/-, but only had core scale of pay of Rs.950-1500/-, and therefore what would be actually the core scale of pay of care takers of respondent no. 1/University, the same was resolved in terms of para (2) of the letter of the UGC dated 10.4.1998 and which provided that the replacement pay scales no doubt would be as per the recommendations of the Fifth Pay Commission Report, however, if caretakers/category (ii) employees are already getting a different higher pay scales then such higher pay scales will be protected as personal rights of such existing employees with the condition that core scale of pay for new recruits (future recruitment) will be at the lower scale of Rs.950-1500/- and not at Rs. 1350-2200/-.*

(iii) The communication of UGC dated 5.10.1999 did not in any specific manner override or deny benefit of higher pay scales to care takers being category (ii) employees of the respondent no. 1/University, and personal rights of such persons although actual core scale of pay would be lower as per the Fifth Pay Commission Report, the existing higher pay scales were protected, and it was simply specified as per para 4(iii) that core scale of pay would be the core scale of pay of corresponding posts in Central Government i.e. the personal entitlement of a higher pay scale given by the communication of UGC dated 10.4.1998 was not in any manner taken away by the communication of UGC dated 5.10.1999 and all that was specified was that only the core scale will remain equivalent to the corresponding post in Central Government for future recruitment, and this is when one so reads this with para (2) of the letter of the UGC dated 10.4.1998 and para 3(v) of the self-same letter dated 5.10.1999 of UGC, that existing incumbents of posts were to get the normal replacement scales as personal to them with new recruitments taking place in rationalized pay structure corresponding to Government pay scales for equivalent categories/posts.

(iv) Therefore once the higher pay scale already stood granted to category (ii) employees, including the care takers such as the petitioners, the Government did not and could not reduce the core pay scale of care takers from Rs. 1350-2200/- to Rs.950-1500/-, and once personal pay scales of Rs. 1350-2200/- are accepted so far as petitioners/caretakers are concerned, the pay scale which would then be granted to such persons as per the Fifth Pay Commission Report would be in the band of Rs. 4500-7000/-.

7. In view of the above, I do not agree with the contentions and arguments urged on behalf of the respondent nos. 1 and 2 that by the communication dated 5.10.1999 of the respondent no. 2 and 29.7.1999 of Ministry of Human Resource Development specified core scale of pay by the same core scale of pay as Central Government employees, and accordingly therefore such language means that already existing higher pay scales of petitioners as care takers would be taken away from them although such rights were preserved and personal to the existing employees in terms of para (2) of the communication of UGC dated 10.4.1998. Retrospectively, the monetary benefits granted to employees, are never ordinarily taken away by the government.

8. In view of the above, writ petition is allowed. It is directed that petitioners/care takers of the respondent no. 1/University who have been enjoying higher pay scales in terms of the notification of the respondent no. 1/University dated 21.3.1996 would be put in the core scale of pay of Rs. 1350-2200 being the existing scale to be revised as per the Fifth Pay Commission Report, and which Fifth Pay Commission Report revised the pay scales of Rs. 1350-2200/- to

Rs. 4500-7000/-. Petitioners will be entitled to all consequential monetary benefits as to be calculated in terms of this judgment and the respondent no. 1 now will pay the appropriate monetary benefits and consequential monetary benefits to the petitioners within a period of six months from today. If the appropriate monetary benefits are not paid within six months from today, then, petitioners so far as future period after six months is concerned, will be entitled to interest @ 7 ½% per annum simple on all arrears which are to be paid in terms of this judgment and not paid within a period of six months from today. Parties are left to bear their own costs.

W.P.(C) Nos. 1364/2000, 2735/2000 and 6231/2001

In these writ petitions, petitioners are also category (ii) employees in terms of the communication of the UGC dated 10.4.1998 and therefore they will get the same benefits as per the ratio in the judgment in W.P.(C) No. 1050/2000. These writ petitions are also therefore allowed and same directions are also issued against the respondent no. 1/University as issued in W.P.(C) No. 1050/2000. Parties are left to bear their own costs."

20. The observations of the Court in the aforementioned judgment are both relevant and significant for the present writ petition, inasmuch as the Court negated the contention of JNU that by communication dated 05.10.1999, UGC intended to reduce the existing higher pay scales of the incumbents, though preserved and personal to them under paragraph 2 of UGCs communication dated 10.04.1998. Court also observed that monetary benefits granted to the employees are ordinarily not taken away by the Government, retrospectively. For the sake of completeness, I may also extract hereunder the letter dated 10.04.1998:-

"SPEED POST UNIVERSITY GRANTS COMMISSION BAHADURSHAH ZAFAR MARG NEW DELHI-110 002

No. F.31-3/97(CU) 10th April, 1998

The Registrar Jawaharlal Nehru University New Mehrauli Road New Delhi-110 067

Subject : Pay revision of employees of Central Universities, etc. pursuant to the recommendations of the Fifth Central Pay Commission-Jawaharlal Nehru University.

Sir,

I am directed to refer to this officer letter of even number dated 8th April, 1998 conveying the approval of the University Grants Commission to revision of scales of pay of non-teaching employees of the Jawaharlal Nehru University as recommended by the Group of Officers and to say that the matter has been further considered by the Commission with in consultation with Government of India and the Commission has decided as under: -

1. The Group of Officers constituted by UGC had identified two categories of cases in the above institutions, namely -(i) Categories where pay scales and conditions of service are similar to those in Government; and (ii) Categories where scales and conditions of services are different from those available in Government employees.

2. As regards cases falling in category (ii) above, the Commission have examined the matter in consultation with the Ministry of Human Resource Development and Ministry of Finance (Department of Expenditure) and it has been decided that the corresponding replacement pay scales given in the First Schedule, Part A, Central Civil Service (Revised Pay) Rules, 1997 to the pay scales which have been extended to the existing incumbents with prior permission to the competent authorities but are different from those approved by the Government may be given as personal to the current incumbents of those posts on the consideration that they have already been drawing benefit of the grade in the pre-revised scale. The University may ensure that once these incumbents vacate the posts, the pay scales would be reverted to the approved level which exists in Government. New recruitment would also take place at the level of scales approved by Government."

21. Therefore, applying the judgment to the facts of the present case, the pay scale of Rs.1640-2900 granted to the Petitioner would be treated as personal to him and is protected under UGC's directions, as mentioned above and the case of the Petitioner is covered on all four corners by the judgment in ***Bam Dev Chhetri (supra).***

22. I may now examine the crucial document i.e. the internal audit which, according to JNU, is the reason why the impugned action was taken. Before examining the correctness of the observations in the internal audit, I may extract the same hereunder for ready reference:-

"INTERNAL AUDIT

Shri Suresh Chand, Dresser-cum-Compounder was appointed on 24.12.1992 in the pay scale of Rs. 1200 – 2040. He

> *was granted the scale of Rs. 1640 – 2900 from the date of appointment. Being the post of Dresser-cum-Compounder an isolated cadre, the University granted the personal pay scale of Rs. 1640-2900 on the analogy that the pay scale is similar to Assistant cadre.*
>
> *From the pay scales proposed in the Annexure to the Agenda for the Finance Committee meeting held on 09.04.2001 and (as per the approval of the Vice-Chancellor dated 25.04.2001), it is noticed that the OUM scale 'C' of Dresser-cum-Compounder is Rs. 1400 – 2300 and SUM scale is Rs. 1640 – 2900 which Shri Suresh has already availed.*
>
> *In view of the above Administration may please examine the case and clarify whether Shri Suresh is eligible to get the 2nd financial benefit w.e.f. 24.12.2012."*

23. From a bare perusal of the internal audit, it is apparent that the objection raised was that the OUM scale of Dresser-cum-Compounder is Rs.1400-2300 and SUM scale is Rs.1640-2900, which the Petitioner had already availed. It needs to be highlighted that in the audit note itself, reference is made to the pay scales proposed in the 'Annexure' to the Agenda for the Finance Committee meeting held on 09.04.2001, which was approved by the Vice-Chancellor on 25.04.2001. Therefore, once these pay scales were approved on 25.04.2001, they could only be applied prospectively. In other words, a benefit granted to the Petitioner in 1998 by placing him in the scale of Rs.1640-2900 as personal to him could not be taken away only because in 2001, pay scales in the hierarchy of Dresser-cum-Compounder were approved. In fact, the internal audit only fortifies the stand of the Petitioner that in 1998 when he was placed in the scale of Rs.1640-2900, the post of Dresser-cum-Compounder in JNU was an isolated post and which is why he was given parity with the post of Assistant. Viewed in this background, Petitioner is right in contending that the higher pay scale of Rs.1640-2900 has to be treated as a placement scale granted to him w.e.f. 24.12.1992 and can at best be

treated as 1st OUM and not the 2nd financial upgradation under MACP Scheme.

24. Additionally, Petitioner's case is covered under clarification No. 35 dated 03.10.2001 with respect to the ACP Scheme wherein it is stated that placement in higher scale of pay without change in designation or adding new qualifications for holding the post in a higher grade, not specified in the hierarchy of the post under the Recruitment Rules, will not be treated as upgradation and thus placement of the Petitioner in pay scale Rs.1640-2900, without any change in designation/additional qualification, will have to be ignored for the purpose of 2nd financial upgradation.

25. Last but not the least, the issue that now needs examination is whether Petitioner is eligible to be considered for the 2nd financial upgradation under MACP Scheme. Pursuant to the recommendations of 6th CPC, Government of India introduced the MACP Scheme by an O.M. dated 19.05.2009 and made it operational w.e.f. 01.09.2008. Under the MACP Scheme, an employee is entitled to three financial upgradations, counted from the direct entry grade on completion of 10, 20 and 30 years' service respectively. Financial upgradation under the Scheme is admissible where a person has spent 10 years continuously in the same Grade Pay. Petitioner was appointed on 24.12.1992 and completed 20 years of regular and continuous service on 24.12.2012. Since Petitioner was granted only one upgradation as 1st OUM, he is, in my considered view, eligible to be considered for 2nd financial upgradation in Grade Pay Rs.4600/- in Pay Band Rs.9300-34800. The Administrative Branch of JNU had rightly recommended the case of the Petitioner and the relevant document annexed to the writ petition is scanned and placed below:-

Employee details for consideration under MACP Scheme

1.	Name of the Employee	Sh Suresh Chand
2.	Date of Birth	01.05.1970
3.	Date of appointment with post	Appointed as Dresser-cum-Compounder in the pay scale of Rs. 1200-2040 w.e.f. 24.12.1992
4.	Present designation/Scale of pay	Dresser-cum-Compounder PB-II Rs. 9300-34800 + GP Rs.4200
5.	Category of the posts (Group A, B or C)	Group 'C'
6.	Financial upgradation/ promotion availed from time to time in chronological order since the date of the first appointment in the University till the present status Sr. No. | Name of the post | Scale of Pay 1 | Dresser-cum-Compounder | PB 9300-34800 + GP 4200	1. Placed in the upgraded pay scale of Rs. 1640-2900 w.e.f. 24.12.1992 (QUM) 2. Revision of pay scale of Rs. 5500-9000 w.e.f. 1.1.1996 as per 5th CPC (1st Benefit OUM). 3. Revision of pay scale of Rs. 9300- 34800 + 4200GP w.e.f. 1.1.2006 as per 6th CPC.
7.	Total regular service from: w.e.f. 24.12.92 to 01.09.2008	15 years, 08 months & 08 days
	(a) the date of first appointment (b) the date of direct recruitment	24.12.92 24.12.92
8.	No. of promotion/up-gradations already received to be adjusted against MACP	One
9.	No. of up-gradation due after adjusting the promotions/up-gradations already received	Two
10.	Is it a cadre post (say Yes/No) - Yes (If yes indicates the hierarchy of the cadre)	Name of the post | Pay Band & Grade Pay Group C | PB-II Rs. 9300-34800 + GP Rs. 4200 Dresser-cum-Compounder | PB-II Rs. 9300 +34800 + GP Rs. 4200
11.	Scale of pay proposed to be given under MACP Scheme	2nd Benefit PB-II Rs.9300-34800 +GP Rs. 4600 w.e.f. 24.12.2012
12.	Qualification of the incumbent	Matriculation
13.	Remarks	Completed more than 20 years of service and became due for 2nd benefit under MACP w.e.f 24.12.2012

MD.X...
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Consultant Deputy Registrar (Admn.) DFO (IA)

26. Accordingly, Respondent/JNU is directed to consider the case of the Petitioner for 2nd financial upgradation under the MACP Scheme in Grade Pay Rs.4600/- in Pay Band Rs.9300-34800 (PB-2), within 10 weeks from today. Needless to state, if Petitioner meets all

the requisite criteria under the MACP Scheme, he shall be granted 2nd financial upgradation in Grade Pay of Rs.4600/- in PB-2 w.e.f. 24.12.2012, with all other consequential benefits including arrears, with interest @ 6% per annum till the date of actual payment.

27. Writ petition is allowed in the aforesaid terms with no order as to cost.

JYOTI SINGH, J

FEBRUARY 21, 2023/shivam/kks