



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

% *Date of decision: July 3, 2023*

+ W.P.(C) 8688/2023 & CM APPL. 32888/2023,
CM APPL. 32889/2023 and CM APPL. 32890/2023

UNION OF INDIA THROUGH THE SECRETARY
& ANR.

..... Petitioners

Through: Mr. Vikrant N.Goyal and Mr. Ayushi
Garg, Advs.

versus

VIJAY KUMAR SAXENA

..... Respondent

Through: Mr. Mahesh Srivastava and Mr.
Vaibhav Manu Srivastava, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 32888/2023 and CM APPL. 32890/2023

Exemptions allowed subject to all just exceptions

Applications stand disposed of.

W.P.(C) 8688/2023

1. The challenge in this writ petition is to an order dated September 29, 2022 in Original Application being OA 3321/2015 ('OA', for short) passed by the Central Administrative Tribunal, Principal Bench, New Delhi, whereby the Tribunal has allowed the OA filed by the respondent herein by stating in paragraphs 6 and 7 as under:



“6. In nut shell, we are of the considered opinion that the applicant is entitled for IInd and IIIrd financial upgradations under both ACP/MACP Schemes with effect from the date of initial appointment, i.e., the date of regularization of his appointment i.e., 13.07.1976. Hence, prima facie, the applicant has succeeded in making out his case for 2nd ACP w.e.f. 13.07.2000 instead of 05.01.2004 and 3rd MACP w.e.f. 05.01.2008 as has earlier been granted by the respondents themselves, vide order No. 73 dated 11.08.2010.

7. With the above observation, the OA is allowed. The respondents are directed to re-fix the pay of the applicant in terms of the order and pay him the arrears thereof within a period of two months from the date of receipt of a certified copy of this order. No costs.”

2. The submission of Mr. Vikrant N. Goyal, learned counsel appearing for the petitioner is two-fold. According to him, the Tribunal in paragraph 6 has directed the grant of 3rd MACP w.e.f January 5, 2008 instead of September, 2008, the date of implementation. His second submission is that the Tribunal has directed the grant of benefit of 2nd ACP and 3rd MACP to the respondent by taking the appointment of the respondent w.e.f July 13, 1976 instead of January 5, 1980.

3. In so far as the first submission is concerned, the same is appealing to the extent that, when the MACP has been implemented w.e.f September 1, 2008, the Tribunal could not have granted the same w.e.f January 5, 2008.

4. In so far as the second submission of Mr. Goyal is concerned, the same is rejected for the simple reason that the appointment of the respondent has been regularised w.e.f July 13, 1976. If that be so,



when the regular appointment of the respondent relates back to July 13, 1976, the counting of period for the purpose of ACP / MACP must relate back to the said date. Moreover, on a specific query, whether the order granting regularisation w.e.f July 13, 1976, has been withdrawn, the answer is in the negative.

5. By clarifying that the grant of 3rd MACP to the respondent shall relate back to September 1, 2008, we dismiss the petition.

CM APPL. 32889/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

JULY 03, 2023/jg

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