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W.P. Nos.1633, 3323 & 522 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

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THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P. Nos.1633, 3323 and 522 of 2023

AND

W.M.P. Nos.1748 and 3385 of 2023

K. Nagalingam	.. Petitioner in W.P. No.1633 of 2023
V. Venkatachalam	.. Petitioner in W.P. No.3323 of 2023
P. Puduraja	.. Petitioner in W.P. No.522 of 2023

Vs

1	The Principal Chief Security Commissioner Railway Protection Force Chennai 600 003	
2	The Senior Divisional Security Commissioner Railway Protection Force Chennai	.. Respondents in all WPs.

Prayer in W.P. No.1633 of 2023:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records relating to the impugned order of the second respondent in No.M/XP/521/1st MACP/22 dated 12.02.2022 and quash the same and direct the respondents to grant the petitioner the third financial upgradation on completion of 30 years of service with effect from 08.05.2020 as envisaged under the Modified Assured Career Progression Scheme.



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Prayer in W.P. No.3323 of 2023:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records relating to the order of the second respondent in No.SXT/P.608/MACP/2022 dated 23.08.2022 stated to have been issued with the approval of and in response to the order of the first respondent in PCSC/MAS Lr.No.X/P/608/MACP dated 27.07.2022 which has not been served on the petitioner and quash the same and direct the respondents to grant third financial upgradation to the petitioner on completion of 30 years of service with effect from 03.06.2021 as envisaged under the Modified Assured Career Progression scheme and grant him all consequential benefits.

W.P. No.522 of 2023:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to grant third financial upgradation to the petitioner on completion of 30 years of service with effect from 03.06.2021 as envisaged under the Modified Assured Career Progression Scheme and grant him all consequential benefits.

For Petitioner
in all WPs

Mr. P. Mohanraj

For respondents
in WP.1633/23

Mr. S. Janarthanam, SPC

For respondents
in WP.522 &3323/23

Mr. C. Samivel, SPCGSC



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COMMON ORDER

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The subject matter in all these three writ petitions pertains to the claim made by the petitioners under the Modified Assured Career Progression Scheme (in short “the MACPS), for payment of financial upgradation on completion of 30 years of regular service.

2. In all three cases, the impugned proceedings of the 2nd respondent reads as if there are Court cases pending against the petitioners and therefore, the claim made by them is deferred till the disposal of the pending Court cases.

3. The petitioner in W.P.No.1633 of 2023 joined as Kahar on 08.05.1990. The petitioner in W.P.No.3323 of 2023 joined as a Follower-Kahar on 03.06.1991. The petitioner in W.P.No.522 of 2023 joined as Follower-Kahar on 03.06.1991. Ultimately, all these petitioners became Constables during the year 1990. The petitioners were stagnating in the same position for over 20 years.

4. The Government of India, in order to deal with the problem of stagnation, brought into force the MACPS. Under this MACPS, after



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completion of every 10 years, financial upgradation is given. The petitioners got the 1st financial upgradation on completion of 10 years and the 2nd financial upgradation on completion of 20 years. Thereafter, the petitioner in W.P.No.1633 of 2023 was promoted as Head Constable in the year 2019. The petitioner in W.P.No.3323 of 2023 was promoted as Head Constable on 15.09.1999. Similarly, the petitioner in W.P.No.522 of 2023 was promoted as Head Constable on 15.09.1999.

5. The grievance of the petitioners is that even though they were promoted as Head Constables, they were not granted any financial upgradation and they were drawing lesser grade pay than what they were drawing after the II MACPS. Therefore, the petitioners sought for benefit under the III MACPS.

6. The claim made by the petitioners was considered by the 2nd respondent and in all the cases, the petitioners were informed that there were pending cases and accordingly, the decision was deferred and the petitioners were not given the benefit of III MACPS. Aggrieved by the same, these three writ petitions were filed before this Court.



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7. When the matter came up for hearing on 06.08.2024, this Court

passed the following order :

“The common issue that is involved in all the three writ petitions is the claim that is made by the writ petitioners for the third financial upgradation on completion of 30 years of service as envisaged under the Modified Assured Career Progression Scheme.

The claim that was made by the petitioners was not considered, only on the ground that there are some pending cases against them. The petitioners have taken a very specific stand that there are no cases pending against them.

The learned counsel appearing on behalf of the respondents shall take instructions in this regard and if there are any pending cases, the particulars of the same shall be furnished to this Court.

Post these writ petitions under the caption “for orders” on 23.08.2024. “

8. The matter was posted for hearing today and the learned Senior Panel Central Government Standing Counsel submitted that there was no pending case against the petitioners. However, it was brought to the notice of this Court that the petitioners will not be entitled to the benefit of III MACPS, since they were promoted to the post of Head Constable.

9. The learned counsel for the petitioners submitted that the respondents cannot be permitted to take any ground, apart from the ground that



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has been mentioned in the impugned order. The learned counsel further submitted that the promotion given to the petitioners as Head Constables did not result in any financial upgradation and in fact, it has resulted in a lower grade pay of Rs.2,400/-, whereas they were getting the grade pay of Rs.2,800/- after the II MACPS. The learned counsel, therefore, submitted that the promotion that was granted is of no significance and it must be treated to be stagnation in the same position and the petitioners were worse off when they were promoted, since their grade pay got reduced.

10. This Court has carefully considered the submissions made on either side and the materials available on record.

11. The petitioners were denied the benefit of the III MACPS on the ground that there are Court cases pending. Therefore, the claim made by the petitioners was actually deferred, awaiting the disposal of the pending cases. It has now come to light that there are no pending cases against the petitioners.

12. The next ground is to see if the petitioners are entitled to the benefit of the III MACPS. The 2nd respondent did not have the occasion to



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deal with the claim made by the petitioners on merits, since this was deferred by the 2nd respondent on the ground that Court cases are pending against the petitioners. Therefore, such deferment of the decision by itself, cannot stand in the way of the respondents relying upon the Scheme to establish as to whether the petitioners are entitled to such upgradation under the III MACPS. Since the petitioners are claiming as a matter of right for the benefit under the III MACPS, this Court has to satisfy itself as to whether the petitioners are entitled to the benefit of the III MACPS.

13. The MACPS is for the Central Government Civilian employees. This was issued by the Deputy Secretary to the Government of India on 19.05.2009. This MACPS was introduced and recommendations were received to come up with a mechanism to ameliorate the grievance of certain employees, who stagnate in the same post for a long period of time. As per the MACPS, there shall be a 3rd financial upgradation counted from the direct entry grade on completion of 10, 20 and 30 years of service respectively.

14. The specific case of the respondents is that the petitioners should have continued in the same post for 30 years, in order to avail of the benefit of



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the III MACPS, whereas, the petitioners were given promotion as Head Constable and therefore, they lose their right for claiming the benefit under the III MACPS.

15. The MACPS deals with persons, who are stagnating in the same post and also persons, who, in spite of promotion, are carrying the same grade pay in the promotional post. Both categories of persons are covered under this Scheme. In the case on hand, after the II financial upgradation, the grade pay of the petitioners was increased to Rs.2,800/-. However, after the promotion to the post of Head Constable, the grade pay has come down to Rs.2,400/-. In other words, if the petitioners had continued as Constables, they would have earned a higher grade pay and now, they are worse off after the promotion to the post of Head Constable, where their grade pay has been reduced to Rs.2,400/-.

16. If the petitioners have not got the promotion, they would have been entitled to the III MACPS. However, now, the petitioners have been promoted as Head Constables and the grade pay that has been fixed is lesser than the grade pay which was received by them, after the II MACPS. Under such circumstances, the claim made by the petitioners for the benefit of the III



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MACPS, comes very much within the scope of the Scheme. This is in view of the fact that promotions earned in the post carrying the same grade pay in the promotion later, shall also be counted for the purpose of grant of benefit under the MACPS. For the petitioners, they did not get the same pay even after promotion and when they got the promotion, their grade pay is reduced to Rs.2,400/-. Therefore, the petitioners will be entitled to consideration for the benefit of the III MACPS.

17. In the light of the above discussion, this Court records the fact that there are no pending cases against the petitioners. The claim made by the petitioners for the benefit of the III MACPS also comes within the scope of the Scheme. Hence, the same shall be taken into account by the 2nd respondent and necessary orders shall be passed within a period of six weeks from the date of receipt of a copy of this order.

All the three writ petitions are disposed of on the above terms.
No costs. Connected W.M.P.s are closed.

23.08.2024

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Index : Yes/No

Neutral Citation : Yes/No



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N. ANAND VENKATESH, J.

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To

- 1 The Principal Chief Security Commissioner
Railway Protection Force
Chennai 600 003
- 2 The Senior Divisional Security Commissioner
Railway Protection Force
Chennai

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23.08.2024