



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

% Date of decision: January 10, 2024

+ **W.P.(C) 317/2024 & CM APPL. 1474/2024**

(41) **RAJENDRA SINGH SHEKHAWAT & ORS.** Petitioners
Through: Mr. Sanjay Mani Tripathi, Mr. Kamal
Kant Tripathi, Mr. Aditya Raj and
Mr. Suraj Kumar Singh, Advs.

versus

UNION OF INDIA & ORS. Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 1474/2024

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 317/2024

1. This petition has been filed by the petitioner with the following prayers:-

“a.) issue writ/ order or direction In the nature of mandamus directing the Respondents to grant the Petitioners the benefit of arrears of 1st Financial

Upgradation in the ACP Scheme from the date of completion of their 12 years of service till the date of promotion as Head Constable (GD); and/ or

b) issue writ/ order or direction in the nature of mandamus directing the Respondents to grant the Petitioners the benefit of 2nd MACP Upgradation on completion of 20 years of service in



the pay band of 9300-34800 with grade pay of 4200, from the date of completion of 20 years of service; and/ or

c) issue writ/order or direction in the nature of mandamus directing the Respondents to fix the pay of Petitioners in eligible and admissible pay scales as per hierarchy after granting financial upgradation under MACP from their respective due dates in the pay scale of SI (Sub Inspector) with admissible grade pay; and/or

d) issue writ/ order or direction In the nature of mandamus directing the Respondents to issue revised pension order paying arrears of pension in cases of Petitioner Nos. 16 and 23 and the arrears of pay, accordingly on the interest@ 12% p.a. from the date due; and/ or

e) pass such other order or orders this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. In substance, the case of the petitioners as submitted by Mr. Sanjay Mani Tripathi is that though the petitioners have been granted the benefit of 2nd financial upgradation under MACP Scheme but the same is in the grade pay of ₹2800. His plea is, it should be in the grade pay of ₹4200 which is the grade pay in the hierarchy of pay scale. In other words, it is the grade pay of next promotional post in the hierarchy, which need to be granted.

3. We are unable to agree with the limited plea of Mr. Tripathi. In fact, we have drawn the attention of Mr. Tripathi to page 143 of the paper book which is the part of the order of the Hon'ble Supreme Court in a batch of Civil Appeals, lead one being ***Union of India and others v. Ex. HC/GD, Virender Singh, Civil Appeal @ SLP (C) No. 16442 of 2021 & Ors.***, decided on August 22, 2022, wherein, at page 16, the Hon'ble Supreme Court has reproduced paragraphs 29, 30 and 31 of the judgment in the case of ***Union of India and others v. M. V. Mohanan Nair, (2020) 5 SCC 421***, which reads as under:-



“29 ... Under the MACP Scheme, financial upgradations are granted at three regular intervals on completion of 10-20-30 years of service without promotion. Hence, it is also intended to ensure that the employees are adequately incentivised to work efficiently despite not getting promotion for want of promotional avenue. The change in policy brought about by supersession of the ACP Scheme with the MACP Scheme is after well-deliberated and well-documented recommendations of the Sixth Central Pay Commission. Considering the various issues in the implementation of the ACP Scheme, the Pay Commission expressed its views "the only other way is to bring systematic changes in the existing Scheme of ACP so that all the employees irrespective of the existing hierarchy structure in their organisations/cadres, get some benefit under it". The Commission therefore, recommended that the existing scheme of ACP to be continued with the modifications indicated thereon in the report that the financial upgradation has to be in the next immediate grade pay. One of the reasons for the expert body recommending the MACP Scheme was that there were interdepartmental disparities where several departments had varying promotional hierarchies. As a result, the working of ACP Scheme under which an employee who stagnated for 12 years, was entitled to pay in the pay scale of the next promotional post, led to interdepartmental anomalies. The Pay Commission therefore, recommended MACP Scheme with a view to putting an end to the problem ensuing from interdepartmental disparities.

30.By perusal of the MACP Scheme extracted earlier, it is seen that the words used in the Scheme are “placement in the immediate next higher grade pay in the hierarchy of the recommended revised pay bands”. The term “grade pay in the next promotional post” is conspicuously absent in the entire body of the MACP Scheme. The argument of the respondents that the benefit of MACP Scheme is referable to the promotional post, is de hors the MACP Scheme and cannot be accepted. Though ACP and MACP Schemes are intended to provide relief against stagnation, both the schemes have different features. Pay scales under the Sixth Pay Commission



and the MACP Scheme are stated to be more beneficial since it extends to the employees with time intervals with higher pay bands and various facilities which were not available under the ACP Scheme including the three financial upgradations in shorter time span. In any event, MACP Scheme has not been challenged by the respondents. As rightly contended by the learned ASG, the respondents cannot be permitted to cherry-pick beneficial features from the erstwhile ACP Scheme and also take advantage of the beneficial features in the MACP Scheme.

31. The object behind the MACP Scheme is to provide relief against the stagnation. If the arguments of the respondents are to be accepted, they would be entitled to be paid in accordance with the grade pay offered to a promotee; but yet not assume the responsibilities of a promotee. As submitted on behalf of Union of India, if the employees are entitled to enjoy grade pay in the next promotional hierarchy, without commensurate responsibilities as a matter of routine, it would have an adverse impact on the efficiency of administration.”

4. Suffice to state that the Supreme Court has settled the law in regard to the grant of benefit of MACP to the next higher grade pay and not to the grade pay in the next promotional post. In view of the aforesaid position of law, we are afraid that the limited submission made by Mr. Tripathi cannot be granted.

5. The petition being without merit is dismissed.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 10, 2024/ds