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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 10.09.2024***

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W.P.(C) 4476/2022

SARTAJ SINGH CHAHAL

.....Petitioner

Through: Mr.Nikhil Bhardwaj, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr.Sanjeev Uniyal, Mr.Rahul Kumar,
Mr.Vivek Nagar & Mr.Dhawal Uniyal, Advs.
Mr.Gopal Singh, Asst. Commdt., Mr.Amit Kumar,
SI and Mr.Mohit Kumar, Constable, CISF.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MS. JUSTICE SHALINDER KAUR****REKHA PALLI, J (ORAL)**

1. The petitioner, who is serving in the Central Industrial Security Force (CISF) as a Constable (General Duty), has approached this Court under Articles 226 & 227 of the Constitution of India, seeking the following reliefs:-

“i) issue a Writ of Certiorari for quashing the APAR grading for the period from 01.01.2016 to 31.12.2016 vide which Petitioner was graded ‘Good’ (4.5);

ii) Issue a Writ of Certiorari for quashing impugned order dated 30.08.2019, vide which respondents rejected appeal of petitioner for upgradation of his APAR for the period of 01.01.2016 to 31.12.2016 from ‘Good’ to ‘Very Good’ and impugned orders dated 02.11.2020 & 21.01.2021 vide which respondent department rejected



the request of petitioner for grant of 2nd financial benefit under MACP Scheme;

iii) Issue a Writ of Mandamus directing the respondents to upgrade Petitioners APAR for the period of 01.01.2016 to 31.12.2016 to 'Very Good' from 'Good' and thereafter direct the respondents to grant 2nd financial benefit under MACP Scheme to the Petitioner immediately on completion of 20 years of regular service alongwith consequential benefits;

iv) Pass such further and other orders and directions as this Hon'ble Court may deem it and proper."

2. Before dealing with the rival submissions of the parties, we may note the brief factual matrix as emerging from the record.

3. The petitioner joined the CISF as a Constable on 04.05.1997 and was w.e.f. 01.09.2008 granted the benefit of 1st financial upgradation under the Modified Assured Career Progression Scheme (MACP). It is the petitioner's claim that in 2007, he was diagnosed with 'Bipolar Affective Disorder and Psychothemia' and consequently placed in lower Medical Category Shape II by the Medical Board held in the year 2009-10. As per the recommendations made by the Medical Board, he is neither being assigned any night duty nor any duty with weapons and is required to work only under close supervision of his seniors.

4. On 29.10.2017, upon completion of 20 years of continuous service, the petitioner became eligible for being considered for grant of 2nd financial upgradation under the MACP but was denied the said benefits as it was found that he was not fulfilling the prescribed conditions for grant of MACP as laid down in para 4(i) of the CISF Circular No. 09/2016, which read as



under:-

“Out of last 5 years, preceding the year of DPC, one should have Very Good ACRs / APARs grading for minimum 3 Years including the ACR / APAR of the year preceding the year of ‘DPC,’ for granting financial upgradation under MACP Scheme.

Other instructions will remain unchanged.”

5. Taking into account that the petitioner was denied the grant of 2nd financial upgradation under the MACP on the basis of his grading in his APARs, the respondents, vide their order dated 07.08.2018, communicated the impugned APAR for the period between 01.01.2016 to 31.12.2016 to him. In this APAR, the petitioner was graded as ‘good’ with a box grading of ‘4’ by his Reporting Officer, which was upgraded to ‘4.5’ with the same grading of ‘good’ by his Reviewing Officer. Being aggrieved, the petitioner submitted a representation to the respondents seeking upgradation of his APAR for the period 01.01.2016 to 31.12.2016. Upon this representation being rejected vide order dated 30.08.2019, the petitioner submitted further representations, which were also rejected on 12.11.2020 and 20.01.2021. It is in these circumstances that the petitioner approached this Court by way of the present petition.

6. In support of the petition, learned counsel for the petitioner has made two submissions. The first being that that even though the petitioner has always, despite being in low Medical Category, discharged all his duties diligently, the respondents have, without issuing any warning or memo to him, downgraded the petitioner to ‘good’, due to which he has been denied the benefit of 2nd financial upgradation under the MACP. He next contends that taking into account that the petitioner has been placed in Medical



Category Shape II since 2007, the respondents ought to have treated his case with compassion and graded him suitably so that he could be granted the benefit of 2nd financial upgradation under the MACP. He, therefore, prays that the respondents be directed to upgrade the petitioner from ‘good’ to ‘very good’ in his impugned APAR and re-consider his case for grant of the benefit of 2nd financial upgradation under the MACP.

7. On the other hand, learned counsel for the respondents by drawing our attention to the gradings received by the petitioner in his APARs during the period between 2012 and 2019, contends that the petitioner’s plea that he was downgraded to ‘good’ is factually incorrect. He submits that the petitioner, who had been graded as ‘average’ in 2015, had in fact been, upgraded to ‘good’ in his impugned APAR and therefore, there was no requirement for issuance of any warning or memo to him. Further, taking into account that the petitioner has been placed in Medical Category Shape II since 2007, the respondents have treated him with utmost compassion and have been suitably accommodating him for lighter duties as per the medical advice. He, therefore, prays that the writ petition be dismissed.

8. Having considered the submissions of learned counsel for the parties and perused the record, we find that the petitioner has assailed the impugned APAR primarily on the ground that he has been downgraded to ‘good’ without issuing any warning or memo on him. It is his claim that had he been graded as ‘very good’ in the impugned APAR, he would have been eligible for grant of 2nd financial upgradation under the MACP. The respondents have, however, contended that there was no downgrading of the petitioner in the impugned APAR and therefore, there was no requirement of issuance of any warning or memo to him. In order to appreciate the rival



submissions of the parties on this aspect, it would be necessary to ascertain as to whether the petitioner has in fact, been downgraded as claimed by him. We may, therefore, note herein below the petitioner's APAR gradings from 2012 to 2019 by way of the following tabular chart.

<i>YEAR</i>	<i>GRADING</i>
<i>2012</i>	<i>Very Good.</i>
<i>2013</i>	<i>Good.</i>
<i>2014</i>	<i>Very Good.</i>
<i>2015</i>	<i>Average.</i>
<i>2016</i>	<i>Good.</i>
<i>2017</i>	<i>Good.</i>
<i>2018</i>	<i>Good.</i>
<i>2019</i>	<i>Average.</i>

9. From a bare perusal of the aforesaid tabulation, it is evident that the petitioner has been graded as 'average' in his APAR for the year 2015 i.e. the year preceding the period under the impugned APAR. As noted hereinabove, the petitioner has, under the impugned APAR, been graded as 'good'. It is, therefore, evident that the petitioner's plea that he has been downgraded in his impugned APAR for the period between 01.01.2016 to 31.12.2016 is factually incorrect. The petitioner was clearly upgraded in the year 2016 *vis a vis* the grading of 'average' awarded to him in his APAR for the year 2015. In these circumstances, once we find that the petitioner has not been downgraded at all, the respondents cannot be faulted for not issuing him any warning or memo, which are required to be issued only while



making adverse remarks or downgrading employees in their APARs.

10. We have also considered the petitioner's plea that since he has been placed in low Medical Category since 2007 itself, he should have been assessed compassionately and awarded a grading of 'very good' so as to enable him to earn the benefits of 2nd financial upgradation under the MACP Scheme. Regrettably, we find no merit in this plea, as we are of the view that even though while assessing an employee, his/her Medical Category must be kept in mind, the same in itself cannot be a ground to grade him/her as 'very good'. In the present case, the petitioner is admittedly being accommodated in postings involving light duties and has in any event, been upgraded from 'average' to 'good' in the impugned APAR. It can, therefore, not be said that the respondents have treated him in any unfair manner as claimed by the petitioner.

11. For the aforesaid reasons, we find no merit in the writ petition which is, accordingly, dismissed.

(REKHA PALLI)
JUDGE

(SHALINDER KAUR)
JUDGE

SEPTEMBER 10, 2024

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