



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

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Date of decision: March 12, 2024

+ W.P.(C) 3654/2024

(59) HC DVR MAHESH YADAV & ORS

..... Petitioners

Through: Mr. Abhay Kumar Bhargava, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Divjeet Singh Vohra, Sr. PC with
Mr. Rudra Paliwal, GP for UOI

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

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

"It is, therefore, humbly prayed that this Hon'ble Court may please to allow this writ petition and may further be please to:

i. Issue a writ of Mandamus or any other writ order or direction thereby granting the benefits of 2nd MACP at the grade pay of Rs. 4200/- i.e. after completion of 20 Years of service at par with HC/Dvr Suresh Chand Meena OF 83 RAF CRPF who was the Petitioner No. 61 in the W.P.(C) 14107/2023.

ii. Issue a writ of Mandamus or any other writ order or direction thereby to constitute a Joint Committee and the place the case of the petitioner's before the Joint Committee, Union of India and DoP&T to take a decision in terms of Para 53 and 48 of the judgment dated 05.03.2020 passed by the Hon'ble Supreme Court in



UNION OF INDIA AND OTHERS vs. M.V. MOHAN AN NAIR, SLP(C) N o.21803 of 2014 in a time bound manner.

iii. Issue a writ of Mandamus or any other writ order or direction thereby placing the case of the petitioners before Joint Committee, Union of India and DoP&T for the purpose of granting one-time exemption to the petitioners w.r.t grant of benefits of 2nd MACP at the grade pay of Rs. 4200/- i.e. after completion of 20 Years of service which was the next promotional grade/post available at the time of financial upgradation.

iv. Issue a writ of certiorari or any other order or direction thereby quashing the impugned several orders such as order dated 27.12.2023 issued Commandant of 217 BN CRPF, order dated 22.12.2023 issued by the Commandant of 97 RAF BN CRPF, order dated 27.01.2024 issued by the Commandant 207 COBRA BN, order dated 19.12.2023 issued by the Commandant 199 BN CRPF, order dated 09.01.2024 issued by the DIG, Parliament Duty group, order dated 23.12.2023 issued by the Commandant 42 BN CRPF, order dated 05.01.2024 issued by the DIG, Group Centre, CRPF and the order dated 16.01.2024 issued by the Commandant 79 BN CRPF and DIG GC Jhorada Kalan CRPF New Delhi appended in the Annexure-PI (Colly) of this Writ Petition.

v. Pass any other order this Hon'ble Court deems fit in the interest of justice."

2. In effect, the petitioners are seeking the grant of 2nd MACP in the Grade Pay of ₹4,200/- on completion of 20 years of service. That apart, they are seeking direction to constitute a Joint Committee and place the petitioners cases before the Joint Committee, Union of India and DOP&T to take a decision in terms of paragraphs 48 and 53 of the judgment of the Supreme Court in the case of *Union of India v. M.V.*



Mohanan Nair, SLP (C) No. 21803/2014 dated March 5, 2020, in a time bound manner.

3. Suffice to state the issue of grant of scale of promotion post as 2nd MACP stands concluded by the judgment of the Supreme Court in the case of **Union of India and Ors. v. EX. HC/GD Virender Singh, SLP(C) No. 16442/2021**, wherein the Supreme Court in paragraph 12, has held as under:

“12. In view of the aforesaid discussion, the appeals filed by the Union of India are partly allowed and impugned judgments, to the extent they hold that the MACP Scheme applies with effect from 1.1.2006 and that under the MACP Scheme the employees are entitled to financial upgradation equivalent to the next promotional post, are set aside. MACP Scheme is applicable with effect from 1.9.2008 and as per the MACP Scheme, the entitlement is to financial upgradation equivalent to the immediate next grade pay in the hierarchy of the pay bands as stated in Section 1, Part A of the First Schedule to the Central Civil Services (Revised Pay) Rules, 2008. The third issue, which relates to the fulfillment of pre-promotional norms for grant of financial upgradation, is decided against the appellant-Union of India to the extent that this would not be insisted in the case of the Central Armed Forces personnel where, for administrative or other reasons, they could not be sent or undergo the pre-promotional course.”

(emphasis supplied)

4. So it follows that the petitioner is not entitled to 2nd MACP on the next promotion post of Grade Pay of ₹4,200/-. As regards the second submission, we are of the view that this issue has been considered by the respondents in paragraph 5 wherein the following has been stated:



“5. In this connection it is highlighted that presumption of petitioner's counsel in the said case is totally misinterpretation of judgment as Hon'ble Apex Court vide para 47 to 50 of said judgment never asked to form/constitute new committee, however he was directed to Govt of India to decide the anomalies which were placed before Joint Committee constituted in DoP& T and were not finalised till date of judgment. DoP&T vide OM No. 22034/4/2020-Estt[D] dated 05.04.2021 read with Dlg(Estt) Dte Letter No.P.VII-52/2022-Estt-DA.1 (P.Cell) dated 27/12/2022 clarified that all such issues including various request of staff side for continuation of Old ACP scheme beyond 01.09.2008 or exercising option to opt old ACPs instead of MACPs which were placed before Joint Committee, have already been decided by DoP&T with the concurrence of Department of Expenditure and not acceded to by them.”

5. In so far as the plea of Mr. Abhay Kumar Bhargava, learned counsel appearing for the petitioner that the directions given in paragraph 53 of the judgment in the case of **M.V. Mohanan Nair (supra)** have not been considered by the respondents, suffice to state in paragraph 53 of the judgment of the **M.V. Mohanan Nair (supra)**, it is stated as under:

“53. However, as pointed out earlier in para Nos. (47), (48) and (49), since certain anomalies on implementation of the MACP Scheme have been brought to the notice of the Joint Committee in the various meetings of the Joint Committee, Union of India and DoP&T to consider the same as they deem it appropriate and take a decision in accordance with law.”



6. The conclusion of the Supreme Court in paragraph 53 is based on what has been stated in paragraphs 47 to 50 of which a reference is made in paragraph 5 above by the respondents.
7. The petition is without merit and is dismissed.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

MARCH 12, 2024/jg