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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4829/2024

STATE COUNCIL OF EDUCATION RESEARCH AND
TRAINING AND ANR Petitioners

Through: Mrs. Avnish Ahlawat, SC with Mr.
Nitesh Kumar Singh, Advocate.

versus

DR POONAM GAUR

..... Respondent

Through: Ms. Esha Mazumdar and Ms.
Unnimaya S., Advocates.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

03.04.2024

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CM APPL. 19726/2024 -Ex.

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 4829/2024 AND CM APPL. 19725/2024 (Stay)

3. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 02.08.2023 passed by the learned Central Administrative Tribunal in O. A. No. 3067/2017. Vide the impugned order, the learned Tribunal has allowed the original application filed by the respondent by directing that the grading of 'Good' awarded to the respondent in her ACRs/APARs for the period 2003-04 and 2004-05 be upgraded to 'Very Good' and she be then reconsidered for grant of financial upgradation under the MACP on the basis of the upgraded



ACRs/APARs.

4. The primary submission of the learned counsel for the petitioner is that even if the learned Tribunal was of the view that the impugned ACRs/APARs were not properly written or that the respondent's representations against the same were not properly considered by the petitioners, the learned Tribunal could have remanded the matter back to the competent authority instead of upgrading these ACRs/APARs on its own. She, therefore, prays that the impugned order be set aside and the matter be remanded back to the Chairperson, State Council of Education Research and Training (hereinafter referred as 'SCERT'), who she assures will examine the matter afresh and pass a reasoned and speaking order on the respondent's representations in the time as may be granted by this Court.

5. Issue notice. Ms. Esha Mazumdar, Advocate accepts notice on behalf of the respondent. After some arguments, she submits that in case this Court were to remand the matter back to the Chairperson, SCERT, for deciding the representations of the respondent afresh in respect of her two ACRs/APARs and pass a reasoned and speaking order thereon by taking into account the observations made by the learned Tribunal, she has no objection to the impugned order being modified.

6. In the light of the aforesaid stand taken by the parties and having perused the records, we are of the view that the learned Tribunal overstepped its jurisdiction by upgrading the ACRs/APARs of the respondent. In our considered opinion, even if the learned



Tribunal was of the view that the grading 'Good' awarded to the respondent in her aforesaid two ACRs/APARs was not appropriate, it was not open for the learned Tribunal to simply upgrade the same to 'Very Good'. The impugned order insofar as it directs that the ACRs/APARs be upgraded for the period 2003-04 and 2004-05 is unsustainable and deserves to be quashed.

7. In the light of the aforesaid, we modify the impugned order by setting aside the learned Tribunal's direction to treat the respondent's ACRs/APARs for the period 2003-04 and 2004-05 as 'Very Good', However, in view of the observations made by the learned Tribunal from which it *prima facie* appears that these two ACRs/APARs need to be re-visited by reconsidering the respondent's representations submitted against these ACRs/APARs, we remand the matter to the Chairperson, SCERT. Upon remand, the Chairperson, SCERT, will reconsider the representations submitted by the respondent against the aforesaid ACRs/APARs. We further direct that while passing a fresh order on these representations, the Chairperson, SCERT will not only peruse the entire record but also take into account the observations made by the learned Tribunal in the impugned order. A reasoned and speaking order in terms of this order will be passed within six weeks and will be duly communicated to the respondent. It is further directed that in case the ACRs/APARs of the respondent are upgraded, further action in terms of the impugned order for reconsideration of her case for grant of MACP will be taken within six weeks thereafter. However, in case the respondent's representations are rejected, it will be open for her to seek legal recourse as permissible in law.



8. The petition alongwith the accompanying application stands disposed of in the aforesaid terms.

REKHA PALLI, J

GIRISH KATHPALIA, J

APRIL 3, 2024

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