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

+ W.P.(C) 13540/2023

GOVT OF NCT OF DELHI AND ORS. Petitioners

Through: Ms.Avnish Ahlawat, SC, GNCTD
with Ms.Tania Ahlawat, Mr.N.K.Singh,
Ms.Laavanya Kaushik, Ms.Aliza Alam &
Mr.Mohnish Sehrawat, Advs.

versus

MAHIMA GULATI Respondent

Through: Mr.Sachin Sharma & Ms.Nur
Tandon, Advs. along with the husband of the
respondent.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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20.02.2024

1. The present writ petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 18.03.2023 passed by the learned Central Administrative Tribunal (Tribunal) in O.A. No.2589/2021. Vide the impugned order, the learned Tribunal has allowed the original application preferred by the respondent by directing the petitioners to re-fix her pay by extending the benefit of the third MACP to her only w.e.f. 01.07.2016, i.e the date of accrual of her next increment, so that this increment in the grade pay of Rs. 6600/- could be taken into account while granting her the third MACP. Consequently, the learned Tribunal has directed the petitioners to place her in the next higher grade pay of Rs.7600/- by way of third MACP.
2. Learned counsel for the petitioners submits that the impugned order is wholly perverse and is liable to be set aside as the learned Tribunal has



failed to appreciate that the respondent had not submitted any option under Fundamental Rule 22 (I) (a) (1) for granting her MACP only after she had been granted her next increment in the grade pay of Rs 6600/- on 01.07.2016.

3. On the other hand, learned counsel for the respondent supports the impugned order and submits that the petitioners' plea that the respondent had never submitted her option under Fundamental Rule 22 (I)(a)(1), is factually incorrect. By drawing our attention to the respondent's representation dated 18.08.2018, he submits that the respondent had made a specific request in this regard. He, therefore, prays that writ petition be dismissed.

4. In order to appreciate the rival submissions of learned counsel for the parties, we may refer *in extenso* to the representation dated 18.08.2018 submitted by the respondent. The same reads as under:-

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Dated: 18.08.2018

*To,
Deputy Director of Education,
District Central/ New Delhi,
Plot No.5
Jhandewalan,
New Delhi*

Subject: Option with regard to fixation of pay on grant of MACP- reg.

Sir,

With reference to Office Order No.F. DE/F-4(307)/GOC/MACP/2018/9292 9298 dated 07.08.2018 (Copy enclosed), I would like to opt for fixation of pay on grant of 3rd MACP w.e.f. 10.04.2016 as under:

- i. My pay on grant of MACP may be fixed on the basis of FR-22(1)(a)(1) on the date of accrual of the next*



increment due on 01.07.2016 in the grade pay of Rs.6600/- i.e., w.e.f. 01.07.2016 in the pre-revised scale ie. CCS Pay Rules, 2008.

- ii. *My pay in the CCS (Revised) Pay Rules, 2016 may please be fixed w.e.f. 01.07.2016 i.e., after fixation of pay on grant of MACP.*

*Sd/-
Vice Principal,
G.GSS, Lambi Gali,
Hauz Qazi, New Delhi 110006
School ID: 2127031”*

5. From the aforesaid, it is evident that the petitioners’ plea that the respondent had not submitted any option for postponement of the grant of the benefit of third MACP to her to the date when her next increment was due i.e., 01.07.2016, is not borne out from the record. We find that the respondent had duly submitted her representation with a request that the benefit of the third MACP be extended to her only after 01.07.2016, when the increment by which her grade pay was to be enhanced to Rs. 6600/- was due. We, therefore, find absolutely no infirmity with the learned Tribunal’s direction to the petitioners to grant the benefit of third MACP to the respondent by placing her in the next grade pay of Rs. 7600/-.

6. There being no infirmity in the impugned order, the writ petition is meritless and is, accordingly, dismissed.

7. As prayed for, the petitioners are granted six weeks’ time to implement the impugned order.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

FEBRUARY 20, 2024/ kk