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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of decision: April 26, 2024*

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W.P.(C) 5844/2024**RAM PRAKASH YADAV AND ORS**

..... Petitioners

Through: Mr. Sushil Kumar, Mr. Shailesh
Kumar and Mr. Ravi Kumar,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mrs. Amrita Prakash, CGSC with Mr.
Vishal Ashwani Mehta, Advocate.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****V. KAMESWAR RAO, J (ORAL)****CM APPL. 24167/2024 Ex.**

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 5844/2024

1. This petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioners with the following prayers:

“(a) Allow the present Writ Petition and set-aside the Order dated 17.10.2023 passed by the Respondents;

(b) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents to give the benefit of MACP from the date on which the Petitioners completed 20 or 30



years. of unblemished continued service and to re-fix the pay of the Petitioners accordingly;

(c) Issue a writ of man dam us or any. appropriate writ, order or direction, directing the Respondents to give the benefit of three financial up-gradation under MACP scheme to the next higher grade pay in the hierarchy of pay bands from the date on which the Petitioners have completed their 20 or 30 years of their regular service;

(d) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents that while giving the benefit of next grade pay in the pay band w.e.f. their respective due date the Petitioners be placed in the grade pay of Rs.4200 and/but not in the grade pay of Rs.2800 (scale of ASI), which was a non-existent post or grade in BSF (GD), at that point of time, when the Petitioners were entitled for their second financial upgradation;

(e) Issue a writ of mandamus or any other appropriate writ, order or direction, directing. the Respondents to give to the Petitioners the benefits of MACP Scheme w.e.f. their respective due date by placing the Petitioners in the grade/scale of Sub Inspector with corresponding pay band or scale of 5500-9000 (pre revised);

(f) Issue a writ of mandamus or any other appropriate writ, or direction, directing the Respondents to give to the Petitioners the arrears of pay and other consequential benefits arising out of aforesaid refixation; and

(g) Issue. such other. appropriate writ, order or directions as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. This is a second round of litigation, before this Court, initiated by the petitioners. The earlier one being W.P.(C) 9865/2023 titled as ***Ram Prakash Yadav and Ors. v. Union of India and Others*** was disposed of in terms of order dated July 27, 2023, is reproduced as under:-



- “1. Petitioners seek benefit of the Modified Assured Career Progression Scheme from the date petitioners completed 20 or 30 years respectively.*
- 2. Issue notice. Notice is accepted by learned counsel appearing for respondents.*
- 3. Learned counsel for petitioners submits that in similar situation, other individuals, who had approached this Court by way of a writ petition i.e. WP (C) No. 461/2023, it was directed that writ petition would be treated as representation and same will be decided by respondents within eight weeks.*
- 4. Learned counsel for respondents submits that the representation filed by other individuals is already under consideration of the competent authority.*
- 5. In view of the above, it is directed that the present writ petition be treated as representation by the respondents and decision be taken thereon within a period of eight weeks from today. Let decision be communicated to the petitioners in writing. In case petitioners have any further grievance, it would be open for them to avail their remedy in accordance with law.*
- 6. Petition is disposed of in the above terms.”*

3. From the prayer clause, it is noted that the claim of the petitioners is primarily that they be granted the benefit of MACP in the next promotional post of SI which is in the pay band of ₹ 9300-34800 with grade pay of Rs.4200/-and not in next higher grade pay of ₹ 2800.

4. We are unable to agree with said submission made by the counsel for the petitioners for the simple reason, the benefit of the financial upgradation is only to the next grade pay, which happens to be ₹ 2800/-. In fact, this issue has been settled by the Supreme Court in its judgment in the case of ***Union of India & Ors. Vs. Ex.HC/GD Virender Singh, (Special Leave Petition (Civil) No. 16442/2021)*** decided on August 22, 2022, more particularly in paragraph 12, wherein, the Supreme Court has held that the MACP scheme



contemplates grant of the financial upgradation to the immediate next grade pay. In support of the proportion, we shall reproduce paragraph 12, 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 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)”

5. The petitioners having been granted the grade pay of ₹2800/-, which is next grade pay to ₹2400/-, which they were drawing, we do not see any illegality in the impugned order, and in this regard we reproduce paragraph Nos. 10 and 11 of the impugned order dated October 17, 2023, as under:

“10. In respectful compliance of the Hon'ble Delhi High Court judgement dated 27.07.2023, it is conveyed that as per FHQ BSF (NG Confd Section: Seniority Desk) vide its letter No. C-17/24/2018/Confid-NG/BSF/4386 dated 22/02/2023, the MACP Scheme applies w.e.f, 01/09/2008 and as per the MACP, the entitlement is for financial up-gradation equivalent to the immediate next grade pay in the hierarchy of the pay bands as stated in Section-1, Part of the first Schedule to the Central Civil Service (Revised pay) Rules 2008.



11. Hence, your prayer for grant of 2nd financial up-gradation under MACP Scheme on completion of 20 years of service in the pay band of 9300-34800 with grade pay of 4200/- has been rejected in the light of FHQ BSF (NG Confd Section: Seniority Desk) letter No. C-17/24/2018/Confid-NG/BSF/4386 dated 22/02/2023.”

6. The writ petition is dismissed. No costs.

V. KAMESWAR RAO, J

RAJNISH BHATNAGAR, J

APRIL 26, 2024/ib