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

+ W.P.(C) 8794/2024

M.M. VIKRAMAN

..... Petitioner

Through: Mr. Tanveer Ahmed Ansari, Advocate.

versus

UNIVERSITY OF DELHI AND ANR

..... Respondents

Through: Mr. Akshat Bajpai, Ms. Ishanee Sharma
and Mr. Shobhit Trehan, Advocates for R-1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **01.07.2024**

CM APPL. 35805/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This writ petition has been preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking a direction to the Respondents to grant him benefit of 3rd financial upgradation under the Modified Assured Career Progression (MACP) Scheme issued by Department of Personnel and Training (DoPT) vide O.M. dated 19.05.2009 in Grade Pay of Rs.4600/- in PB-II 9300-34800.

4. It is stated in the petition that Petitioner was appointed as Laboratory Attendant in Lady Irwin College under University of Delhi in pay scale of Rs.210-270 and was placed in Selection Grade of Rs.260-350 on 05.03.1981. Petitioner was promoted to the post of Junior Lab Assistant in the pay scale of Rs.260-430 and his pay was fixed at Rs.284/- w.e.f. 01.03.1983, which was revised to Rs.975-1540 consequent upon



recommendation of 4th Central Pay Commission (CPC) w.e.f. 01.01.1986. Respondent No. 1 placed all Junior Laboratory Assistants, including the Petitioner in the pay scale of Rs.1320-2040 vide letter dated 31.08.1989 w.e.f. 31.12.1986. Petitioner was promoted to the post of Senior Lab Assistant in the same pay scale of Rs.1320-2040 w.e.f. 01.01.1993 and his pay was fixed at Rs.1560/-.

5. It is further averred that Respondent No. 2 subsequently upgraded the pay scale of the Petitioner in terms of letter No. CBIII/97/25315 issued by Respondent No. 1. Pay of Petitioner was revised from Rs. 284/- in the pay scale of Rs. 260-430 to Rs. 380/- in the pay scale of Rs. 380-560 w.e.f. 01.03.1983 and pay was fixed at Rs. 1350/- in pay scale of Rs. 1320-2040 from Rs. 1125/- in pay scale of Rs. 975-1540 w.e.f. 01.01.1986 and pay was further revised to Rs.1640/- in the pay scale of Rs. 1400-2300 from Rs.1560/- in the pay scale of Rs. 1320-2040 w.e.f 01.01.1993. However, cash benefit was allowed from 25.06.1996 only. Pay of the Petitioner was refixed at Rs.1560/- in the pay scale of Rs. 1400-2300 under One Time Upward Movement (OTUM) w.e.f. 01.03.1991, which was approved vide letter no. CB-III/97/38184 dated 09.12.1997 and was further refixed at Rs. 1720/- in the pay scale of Rs. 1400-2300 w.e.f. 01.03.1993. Consequent upon recommendation of the 5th CPC, Basic Pay of the Petitioner was fixed at Rs. 5500/- in the Pay Scale of Rs. 4500-7000 w.e.f. 01.01.1996.

6. It is averred that vide Notification No. Estab.III/2005 dated 22.03.2005 issued by Respondent No. 1, Respondents again revised the pay of the Petitioner at Rs.1400/- in the Pay Scale of Rs.1400-2300 w.e.f. 01.01.1986 and accordingly refixed the pay at Rs. 1760/- in the pay scale of Rs. 1640-2600 w.e.f. 01.01.1994 and further refixed at Rs. 5850/- in the pay



scale of Rs. 5500-9000 w.e.f. 01.01.1996 in terms of Executive Council Resolution No. 203 dated 28.02.2005. Petitioner's Basic Pay was further revised to Rs. 14,140/- in PB-II 9300-34800 with Grade Pay of Rs. 4200/- w.e.f. 01.01.2006, consequent to recommendation of 6th CPC. Petitioner superannuated from service on 28.02.2009.

7. It is stated in the petition that DoPT introduced the MACP Scheme vide O.M. dated 19.05.2009, pursuant to recommendation of 6th CPC providing for three financial upgradations at intervals of 10, 20 and 30 years of continuous regular service, based on recommendations of the Screening Committee, subject to an employee spending 10 years continuously in the same Grade Pay. Petitioner completed 30 years of regular service on 29.01.2009 and became eligible for grant of 3rd MACP in the Grade Pay of Rs.4600/- in PB-II w.e.f. 29.01.2009, which was the immediate next higher grade pay of Rs.4200/- drawn by the Petitioner, however, he was deprived of the said benefit.

8. On the aspect of delay and laches in approaching the Court, learned counsel for the Petitioner submits that Petitioner was unaware of his entitlement to 3rd MACP at the time of his superannuation and as soon as he became aware of his right of consideration under the MACP Scheme, he has approached the Court. It is further urged that there are judicial precedents where Courts have condoned delay in matters pertaining to pay scales *albeit* restricting the relief with respect to the period for which arrears are payable.

9. Issue notice.

10. Mr. Akshat Bajpai, learned counsel accepts notice on behalf of Respondent No. 1.

11. Heard.



12. By this petition, Petitioner lays a claim to grant of 3rd financial upgradation under the MACP Scheme on completion of 30 years of regular service. It is an admitted position that Petitioner has approached this Court without making any representation to the Competent Authority for considering his case for 3rd MACP benefit. There is no clarity whether the case of the Petitioner was considered for grant of 3rd MACP and rejected or was not considered at all. Assuming that Petitioner's case was considered, the reasons for rejection have not been communicated to the Petitioner. In these circumstances, in my considered view, the appropriate course of action will be to direct the Respondents to examine the case of the Petitioner for grant of 3rd financial upgradation under the MACP Scheme.

13. It is accordingly directed that Respondents shall treat the present writ petition as a representation and decide the same by a reasoned and speaking order with respect to Petitioner's claim for grant of 3rd financial upgradation under the MACP Scheme, in consonance with its provisions. The order shall be passed within a period of two months from today and shall be communicated to the Petitioner within one week from the date of the decision, who shall be at liberty to take recourse to legal remedies, if so advised, in case of any surviving grievance. It is made clear that this Court has not expressed any opinion on the merits of the case. The aspect of delay and laches in approaching the Court is left open.

14. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

JULY 01, 2024/shivam