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

+ W.P.(C) 8536/2017

RAM SINGH

.....Petitioner

Through: Mr. Ankur Chhibber, Mr. Nikunj
Arora and Mr. Prahil Sharma, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Ravi Prakash, CGSC with Mr.
Farman Ali, Adv. with Mr. Rajesh
Singh, Legal Officer and Mr. Shiv
Kumar Singh, SI.

+ W.P.(C) 8554/2017

RAGHU DEV

.....Petitioner

Through: Mr. Ankur Chhibber, Mr. Nikunj
Arora and Mr. Prahil Sharma, Adv.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Manish Mohan, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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24.07.2024

1. The present petitions under Article 226 of the Constitution of India have been filed by two retired Constables (GD) who joined the Central Reserve Police Force (CRPF) in 1965 and 1975 respectively, assailing the signals/orders dated 28.05.2013 and 03.07.2013 issued by the respondents whereunder it has been directed that Head Constables (General Duty) would be eligible for second financial upgradation (2nd ACP) in the pay scale of



Sub-Inspector (Executive) only after they qualify the requisite promotional courses.

2. Learned counsel for the petitioners submits that the petitioners and similarly situated personnel joined the CRPF at a time when qualification for recruitment to the post of Constable was 4th grade pass. Since the minimum qualification for the promotion post of SI was matriculation, the respondents in order to protect the promotional avenues of such candidates who were not matriculate, have been granting them promotion/ACP subject to their qualifying the promotion course of Civil Examination-1 (CE-1). The petitioners were during their long service career never detailed for this promotional course i.e. CE-1 but were still denied the benefit of 2nd ACP on the ground that they were neither holding the requisite qualification of matriculation required for promotion as SI nor had they qualified CE-1. Consequently, the petitioners superannuated from service without being granted the benefit of 2nd ACP in the grade of Sub-Inspector (Exe.).

3. He further submits that based on the decision dated 06.09.2013 of a Co-ordinate Bench in **WP(C) 5539/13** titled as ***“Jaipal Singh and Ors. vs. UOI and Ors.”***, the respondents issued a circular dated 16.02.2015 specifically directing where due to administrative reasons, the concerned Constable/Head Constable could not be detailed for any pre-promotional course, he would still be entitled for grant of 2nd ACP after completion of 24 years service. Based on this circular, the respondents have been granting the benefit of 2nd ACP to all similarly placed persons, who could not be detailed for CE-1 or other promotional courses as the case may be, but the petitioners have despite representations illegally denied the said benefit. He, therefore, prays that the impugned orders be set aside and the respondents be directed



to extend the benefits of 2nd ACP to the petitioners along with arrears.

4. Mr. Ravi Prakash, learned counsel for the respondents fairly does not dispute that personnel who could, due to administrative reasons, not be detailed for the applicable promotional courses including CE-1, have been granted the benefit of 2nd ACP by ignoring the fact that they were not holding the qualification of matriculation, which is otherwise mandatory for promotion to the rank of SI (Exe.). He, however, submits that the respondents are yet to verify as to whether the petitioners were ever detailed for the said course or not and contends that in case the petitioners were detailed and could not qualify or did not undergo the promotional course due to personal reasons, they would not be eligible for grant of 2nd ACP.

5. Having considered the submissions of the parties and perused the record, we deem it appropriate to note the relevant extracts of the circular dated 16.02.2015, which read as under:

“CRPF is allowed to grant 2nd Financial Up Gradation under ACP Scheme to all eligible, Constable/Head Constable (Executive / Technical / Tradesmen) from the date they have completed 24 years of regular service, overlooking the condition of any pre-promotional course criteria in those cases where such personnel could not be sent on pre-promotional course by CRPF, due to administrative reasons and not due to any reason owing to such a person concerned, as clarified by DoP&T.”

6. From a perusal of the aforesaid circular, it is evident that the respondents have themselves taken a considered decision that personnel who could not be sent for promotional course due to administrative reason, will be entitled to the benefits of 2nd ACP upon completing 24 years of regular service, regardless of their not being a matriculate or qualifying CE-1. In the light of this circular, the respondents do not deny that the petitioners would be eligible for grant of 2nd ACP if their plea that they were never detailed for



CE-1 was found to be correct. Learned counsel for the petitioners also does not deny that the petitioners would not be eligible for grant of 2nd ACP if it is found that they were detailed for CE-1 but had failed to qualify the same or had not undertaken the course due to personal reasons. This exercise to verify whether the petitioners had ever been detailed for the promotional course is required to be verified by the respondents from their service records.

7. We, therefore, dispose of the writ petitions with directions to the respondents to consider within 12 weeks the petitioners' claims for grant of 2nd ACP from the due date by examining their service record as to whether they were ever detailed for CE-1. In case, it is found that the petitioners were never detailed for CE-1, the respondents will, by ignoring the fact that they were not matriculate, grant them the benefit of 2nd ACP in the pay scale of Sub-Inspector with effect from the date they completed 24 years of service. However, in the event, it is found that petitioners were unable to qualify in the said exam or despite being detailed did not undergo the said course due to personal reasons, no benefit in terms of this order will be extended to them.

8. The writ petitions are, accordingly, disposed of in the aforesaid terms.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 24, 2024/ss