



2024:DHC:8944



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

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Date of Decision: 5th November, 2024

+ W.P.(C) 10133/2015

G.P. SOTI

.....Petitioner

Through: Mr. B.P. Singh, Mr. Anuj Kumar, Ms. Rishabha Singh and Mr. Nakul Nirwan, Advocates.

versus

THE PRINCIPAL DEEN DAYAL UPADHYAY COLLEGE
AND ORS

.....Respondents

Through: Ms. Beenashaw N. Soni and Ms. Ann Jospeh, Advocates for the College/R-1.

Mr. Mohinder J.S. Rupal, Mr. Hardik Rupal and Ms. Aishwarya Malhotra, Advocates for University of Delhi.

CORAM:**HON'BLE MS. JUSTICE JYOTI SINGH****JUDGMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India laying a challenge to the decision taken by the University of Delhi granting him 3rd Financial Upgradation under the Modified Assured Career Progression Scheme (MACP) in PB-3 with Grade Pay of Rs.5400/-. Direction is sought to the Respondents to grant MACP in the Grade Pay of Rs.6600/- in PB-3 with consequential arrears.

2. Factual matrix to the extent relevant is that Petitioner joined Deen Dayal Upadhyaya College ('College') on 07.09.1992 as a Professional Assistant and worked on the same post till the date of his superannuation in July, 2024. Petitioner avers that since no promotion was granted to him even



on 30 years of continuous service, he was entitled for financial upgradation under the Assured Career Progression Scheme (ACP) and thereafter under the MACP Scheme.

3. Petitioner states that he was granted 1st ACP in Rs.8000-13500/- w.e.f. 07.09.2004 on completion of 12 years of regular service and consequent to pay revision under 6th CPC, his pay was fixed in PB-2 (Rs.9300-34800/-) with AGP of Rs.5400/- w.e.f. 01.01.2006. Government of India introduced the MACP Scheme vide DoPT O.M. dated 19.05.2009 effective from 01.09.2008 which entitled the Central Government employees three financial upgradations on completion of 10, 20 and 30 years of regular service from the direct entry grade provided the employee spends 10 years continuously in the same Grade Pay. On completion of 20 years of regular service from the date of direct entry, Petitioner was considered for grant of 2nd financial upgradation under the MACP Scheme and on being found fit was placed in PB-3 (Rs.15600-39100/-) with AGP of Rs. 5400/-.

4. The grievance of the Petitioner, as ventilated in the writ petition is that Petitioner stagnated in the post of Professional Assistant throughout his service of 30 years and therefore while considering his case for 2nd financial upgradation under the MACP Scheme, which envisages upgradation in immediate next higher Grade Pay in the hierarchy of revised Pay Bands and Grade Pay as given in CCS (Revised Pay) Rules, 2008 ('2008 Rules'), Petitioner deserved to be placed in PB-3 with AGP of Rs.6600/-, whereas he was given AGP of Rs.5400/-. The argument is that paragraph 8.1 in Annexure-1 of MACP Scheme, on which the University has placed reliance and which provides that Grade Pay of Rs. 5400/- in PB-2 and in PB-3 shall



be treated as separate Grade Pays, is inapplicable to the Petitioner who has been stagnating without a single promotion. DoPT O.M. dated 06.10.2010 stipulates that paragraph 2 of the MACP Scheme envisages merely placement in the next higher pay and therefore, the staffs in certain departments who are already in the Grade Pay of Rs.5400/- should be legitimately placed in Grade Pay of Rs.6600/- in PB-3 on fulfilment of stipulated years of regular service.

5. Learned counsels for the Respondents jointly submit that Petitioner was appointed as Professional Assistant w.e.f. 07.09.1992 and was granted 1st ACP w.e.f. 07.09.2004 in the pay scale of Rs.8000-13500/- on completion of 12 years of regular service. Consequent upon implementation of 6th CPC, Petitioner's pay was fixed in revised Pay Band of Rs.9300-34800/- (PB-2) with AGP of Rs.5400/-. Petitioner's case was considered under the MACP Scheme for grant of 2nd financial upgradation on completion of 20 years of regular service and he was placed in PB-3 (Rs.15600-39100/-) with AGP of Rs.5400/- which is the entry grade in the next Pay Band, w.e.f. 07.09.2012. There is no legal infirmity in the action of the Respondents and the same is in consonance with paragraph 8.1 of Annexure-1 to the MACP Scheme wherein it is stipulated that for the purpose of MACP, Grade Pay of Rs.5400/- in PB-2 and Grade Pay of Rs.5400/- in PB-3 will be treated as separate Grade Pays.

6. It is contended that Petitioner wrongly claims Grade Pay of Rs.6600/- in PB-3 and his representation to this effect was rightly rejected after deliberation by the University upon examination of paragraph 8.1 of Annexure-1 to the MACP Scheme. After recommendations of 6th CPC, pay scale of Rs.8000-13500/- is now in two Pay Bands viz. PB-2 and PB-3 and



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Grade Pay of Rs.5400/- is treated as separate Grade Pay for grant of upgradation under the MACP Scheme. There is no challenge to the said clause in the Scheme by the Petitioner. The decisions dated 16.09.2014 and 28.04.2015 will reflect this stand of the University, which is in consonance with the MACP Scheme, which are also unassailed by the Petitioner despite being duly communicated to him.

7. Heard learned counsels for the parties and examined their rival contentions.

8. The short issue that arises for consideration before this Court is whether Petitioner is entitled to 2nd financial upgradation under the MACP Scheme in AGP of Rs.6600/- in PB-3.

9. In order to remove stagnation amongst employees due to lack of vacancies etc., Government of India introduced the ACP Scheme vide DoPT O.M. dated 09.08.1999. The Scheme was replaced by the MACP Scheme, pursuant to recommendations of 6th CPC, which *albeit* was introduced on 19.05.2009 but was made effective from 01.09.2008.

10. Under the MACP Scheme, an employee is entitled to three financial upgradations in the next higher Grade Pay, on completion of 10, 20 and 30 years of service respectively provided the person has spent 10 years continuously in the same Grade Pay. It is now no longer *res integra* that MACP Scheme envisages merely placement in the immediate next higher Grade Pay in the hierarchy of recommended revised Pay Bands and Grade Pay, as given in Section 1, Part A of First Schedule of 2008 Rules. [**Ref.: *Union of India and Others v. M.V. Mohanan Nair*, (2020) 5 SCC 421 and *Union of India and Others v. Ex. HC/GD Virender Singh*, 2022 SCC OnLine SC 1058].**]



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11. Pursuant to recommendations of 6th CPC, pay scale of Rs.8000-13500/- was placed in PB-2 (Rs.9300-34800/-) with Grade Pay of Rs.5400/- and PB-3 (Rs.15600-39100/-) with Grade Pay of Rs.5400/-, which is clearly evident from Section 1, Part-A of First Schedule, relevant part of which is as follows:-

THE FIRST SCHEDULE

(SEE RULES 3 & 4)

PART A

SECTION I

Revised pay bands and grade pays for posts carrying present scales in Groups "A", "B", "C" & "D" except posts for which different revised scales are notified separately.

<i>Present Scale</i>			<i>Revised Pay Structure</i>		
<i>Sl. No.</i>	<i>Post/ Grade</i>	<i>Present Scale</i>	<i>Name of pay band/ Scale</i>	<i>Corresponding pay bands/ Scales</i>	<i>Corresponding grade pay</i>
(1)	(2)	(3)	(4)	(5)	(6)
1.	S-1	2550-55-2660-60-3200	-1S	4440-7440	1300
2.	S-2	2610-60-3150-65-3540	-1S	4440-7440	1400
3.	S-2A	2610-60-2910-65-3300-70-4000	-1S	4440-7440	1600
<i>Present Scale</i>			<i>Revised Pay Structure</i>		
<i>Sl. No.</i>	<i>Post/ Grade</i>	<i>Present Scale</i>	<i>Name of pay band/ Scale</i>	<i>Corresponding pay bands/ Scales</i>	<i>Corresponding</i>
4.	S-3	2650-65-3300-70-4000	-1S	4440-7440	1650
5.	S-4	2750-70-3800-75-4400	PB-1	5200-20200	1800
6.	S-5	3050-75-3950-80-4590	PB-1	5200-20200	1900
7.	S-6	3200-85-4900	PB-1	5200-20200	2000
8.	S-7	4000-100-6000	PB-1	5200-20200	2400
9.	S-8	4500-125-7000	PB-1	5200-20200	2800
10.	S-9	5000-150-8000	PB-2	9300-34800	4200
11.	S-10	5500-175-9000	PB-2	9300-34800	4200
12.	S-11	6500-200-6900	PB-2	9300-34800	4200
13.	S-12	6500-200-10500	PB-2	9300-34800	4200
14.	S-13	7450-225-11500	PB-2	9300-34800	4600
15.	S-14	7500-250-12000	PB-2	9300-34800	4800
16.	S-15	8000-275-13500	PB-2	9300-34800	5400
17.	New Scale	8000-275-13500 (Group A Entry)	PB-3	15600-39100	5400
18.	S-16	9000	PB-3	15600-39100	5400
19.	S-17	9000-275-9550	PB-3	15600-39100	5400
20.	S-18	10325-325-10975	PB-3	15600-39100	6600
21.	S-19	10000-325-15200	PB-3	15600-39100	6600
22.	S-20	10650-325-15850	PB-3	15600-39100	6600
23.	S-21	12000-375-16500	PB-3	15600-39100	7600
24.	S-22	12750-375-16500	PB-3	15600-39100	7600
25.	S-23	12000-375-18000	PB-3	15600-39100	7600
26.	S-24	14300-400-18300	PB-4	37400-67000	8700
27.	S-25	15100-400-18300	PB-4	37400-67000	8700

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By: KAMAL KUMAR
Signing Date: 20.11.2024
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28.	S-26	16400-450-20000	PB-4	37400-67000	8900
29.	S-27	16400-450-20900	PB-4	37400-67000	8900
30.	S-28	14300-450-22400	PB-4	37400-67000	10000
Present Scale			Revised Pay Structure		
Sl. No.	Post/Grade	Sl. No.	Post/Grade	Sl. No.	Post/Grade
31.	S-29	18400-500-22400	PB-4	37400-67000	10000
32.	S-30	22400-525-24500	PB-4	37400-67000	12000
33.	S-31	22400-600-26000	HAG + Scale	75500 (annual increment @ 3%) — 80000	Nil
34.	S-32	24050-650-26000	HAG + Scale	75500 (annual increment @ 3%) — 80000	Nil
35.	S-33	26000 (Fixed)	Apex Scale	80000 (Fixed)	Nil
36.	S-34	30000 (Fixed)	Cab. Sec.	90000 (Fixed)	Nil

12. There is no dispute that Petitioner was granted 1st ACP in the scale of Rs.8000-13500/- w.e.f. 07.09.2004 on completion of 12 years of regular service and consequent to pay revision under 6th CPC, he was placed in PB-2 with AGP of Rs.5400/-. Therefore, he was rightly placed in PB-3 with AGP of Rs.5400/- on grant of 2nd financial upgradation under MACP Scheme as this is the immediate next higher Grade Pay in the hierarchy of recommended revised Pay Bands and Grade Pay given in Section 1, Part-A of First Schedule of 2008 Rules, as aforementioned.

13. Broadly understood, Petitioner claims AGP of Rs.6600/- on the premise that his earlier Grade Pay was Rs.5400/- but this perception is wholly misconceived and overlooks the fact that the AGP of Rs.5400/- was granted to the Petitioner in PB-2 while the 2nd upgradation has been granted in PB-3 where the scale changes from Rs.9300-34800/- to Rs.15600-39100/- Moreover, as rightly pointed out by learned counsels for the Respondents, the MACP Scheme itself provides in clause 8.1 of Annexure-1 to the Scheme that Grade Pay of Rs.5400/- in PB-2 and Grade Pay of Rs.5400/- in



PB-3 shall be treated as separate Grade Pays for grant of upgradation under the MACP Scheme, which for ready reference is extracted hereunder:-

“8.1 Consequent upon the implementation of Sixth CPC's recommendations, grade pay of Rs. 5400 is now in two pay bands viz., PB-2 and PB-3. The grade pay of Rs. 5400 in PB-2 and Rs.5400 in PB-3 shall be treated as separate grade pays for the purpose of grant of upgradations under MACP Scheme.”

14. The decision of the University is based entirely on Clause 8.1 of the MACP Scheme as can be seen from the following communication dated 16.09.2014 and the decision being in consonance with the MACP Scheme, no legal infirmity can be found with the decision. There is no challenge to clause 8.1 of Annexure-1 of the MACP Scheme or to the decision dated 16.09.2014 by the Petitioner. Relevant part of the communication dated 16.09.2014 is as under:-

*“...
In this connection, I am directed to inform you that as per clause 8 of Annex-1 of O.M. dated 19.5.2009, it is clearly mention that the Grade Pay of Rs. 5400 in PB-2 and Rs. 5400 in PB-3 shall be treated as separate grade pays for the purpose of grant of up-gradation under MACP Scheme and according to this clause, the next higher grade pay and pay band after PB-2 is Rs. 5400/- in PB-3.”*

15. For all the aforesaid reasons, this writ petition is dismissed being bereft of merit.

JYOTI SINGH, J

NOVEMBER 05, 2024/shivam