

14.01.2025

Item no.DL/3
Court No. 23

Asraf, A.R.(Ct)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 27722 of 2023

Rojina Khatun
Vs.
Union of India & Ors.

Mr. K. B. S. Mahapatra
Mr. Aditya Shit
....for the Writ Petitioner

Mrs. Amrita Pandey
....for Respondents

The petitioner has joined the Central Industrial Security Force (for short, "CISF") as a lady constable on 6th September, 2008. The petitioner became entitled to be considered for Modified Assured Career Progression Scheme (hereinafter referred to as "MACPS") on completion of ten years of service. The petitioner, therefore, came within the zone of consideration for being given MACPS on or after 5th September, 2018. The petitioner has annexed the remarks in her annual confidential report (for short, "ACR") and / or annual performance appraisal report (in short, "APAR") for the years 2009 to 2022.

It appears from an office memorandum dated September 27/28, 2016 that the benchmark for performance appraisal for promotion and financial upgradation under MACPS has been enhanced from “good” to “very good”. Under the prescribed benchmark finalized under the said memo an employee to get MACP should have “very good” for all the posts. On a perusal of the stipulations contained in the said office memorandum dated September 27 / 28, 2016 with the ACR / APAR remarks provided by the petitioner it will appear that for the five years immediately prior to 5th September, 2018, i.e., between 2013 to 2018, the petitioner received “very good” during the periods 18.10.2013 to 31.12.2013, 01.01.2016 to 15.04.2016, 01.09.2017 to 31.12.2017 and 01.01.2018 to 31.12.2018. The petitioner, therefore, did not get the qualifying benchmark of “very good” for three consecutive years prior to the year 2021. It is thus apparent that after the petitioner completed 10 years of service required for being considered for MACP the employee on considering the ACR / APAR for the period between 2016 to 2020, i.e., for

five years, the employer found that the petitioner got the remark “very good” for three consecutive years out of five years. The petitioner, therefore, was given the MACPS with effect from 19th March, 2021, i.e., within three months from completion of the year 2020.

Although the petitioner wanted a judicial interference to prepone the period from which the petitioner was given MACPS and had relied upon a Division Bench judgment of the Delhi High Court passed in W.P.(C) 13964 of 2021 (Akshaya Kumar Parida vs. Union of India & Ors.) delivered on 20th July, 2023 but on a careful consideration thereof, I do not find any identity of facts in the case before the Division Bench of the Delhi High Court and the instant case. The ratio laid down in Akshaya (supra) is, therefore, not applicable to the case in hand.

The employer / CISF had given the petitioner the benefit of MACPS immediately upon the petitioner becoming entitled to the same as per the provisions of the memorandum dated September 27 / 28, 2016.

In the aforesaid facts and circumstances after hearing the parties and considering the materials on record, I do not find any merit in the petitioner's claim or in the writ petition. The writ petition is accordingly **dismissed**.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(**Arindam Mukherjee, J.)**