

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P (S). No. 78 of 2020

Achha Oraon, Ex-Constable RPF 6508, son of late Chunni Pahan, resident of C/o. Sweety Hans, New Garden, Siromtoli, Club Road, P.O. & PS. Chutia, District Ranchi.

..... **Petitioner**

Versus

1. Union of India through the General Manager, South Eastern Railway, P.O. and P.S. Garden Reach, Kolkata-700043 (West Bengal).
2. The I.G-cum-Chief Security Officer, Railway Protection Force, South Eastern Railway, P.O. and P.S. Garden Reach, Kolkata-700043 (West Bengal).
3. Sr. DSC, Railway Protection Force, South Eastern Railway, Adra, P.O. and P.S. Adra, District Purulia.
4. The Divisional Railway Manager, South Eastern Railway, Ranchi Division, Hatia, P.O. and P.S. Hatia, District Ranchi.
5. The Divisional Security Officer, Railway Protection Force, South Eastern Railway, Ranchi Division, Hatia, P.O. and P.S. Hatia, District Ranchi.

..... **Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Akshay Kumar Mahato, Advocate
Ms. Moushmi Chatterjee, Advocate
Mr. Apurav, Advocate
For the Respondents : Mr. Anil Kumar, ASGI
Mr. Ravi Prakash, CGC

07/ 04.09.2025 The instant writ application has been preferred by the petitioner for quashing and setting aside the order dated 03.03.2015 (Annexure-3), issued by respondent No. 2, whereby he has rejected the claim of petitioner for 3rd financial benefits under MACP Scheme.

2. The grievance of the petitioner is that whether the petitioner was having good ACR or bad ACR, the same was not communicated to him and as per Clause-17 of the MACP Scheme i.e. Srl. No. 120/2009 dated 17.06.2009, for the financial upgradation up to G.P. Rs.6600/- in PB-3 is fixed as “Good” but lower limit has been missing in the notification.

3. Ld. Counsel representing the Petitioner contended that since the ACR itself has not been communicated to the petitioner, order rejecting financial claim for MACP is bad in law.

4. During the course of hearing, on the last occasion, learned counsel for the Respondents was asked to verify as to whether the average ACR report was communicated to the Petitioner or not in view of settled proposition of law as laid down in the case of *Anil Kumar Vs. Union of India & Ors.*¹, wherein the Hon'ble Apex Court has held that since any adverse report have civil consequences, that must be communicated to the delinquent and if the same is not communicated, the same is not sustainable. For brevity paras-10 to 18 of the said judgment is quoted herein below:

“10. In Dev Dutt v. Union of India [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] a two-Judge Bench of this Court held that fairness in public administration and transparency require that all entries in the Annual Confidential Reports of a public servant must be communicated within a reasonable period in order to enable the employee to make a representation for upgradation. The view of the Court was that non-communication of entries in the ACRs has civil consequences since it may affect the chances of the employee for promotion and other benefits. A failure to communicate would be arbitrary. This Court held that these directions would apply to employees of statutory authorities, public sector corporations and other instrumentalities of the State, in addition to government servants.

11. A three-Judge Bench of this Court has in Sukhdev Singh v. Union of India [Sukhdev Singh v. Union of India, (2013) 9 SCC 566 : (2014) 1 SCC (L&S) 279] affirmed the correctness of the view taken in Dev Dutt [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] noting that an earlier three-Judge Bench in Abhijit Ghosh Dastidar v. Union of India [Abhijit Ghosh Dastidar v. Union of India, (2009) 16 SCC 146 : (2010) 1 SCC (L&S) 959] had adopted the same principle.

12. The three-Judge Bench in Sukhdev Singh [Sukhdev Singh v. Union of India, (2013) 9 SCC 566 : (2014) 1 SCC (L&S) 279] , held thus : (SCC p. 572, para 8)

“8. In our opinion, the view taken in Dev Dutt [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] that every entry in ACR of a public servant must be communicated to him/her within a reasonable period is legally sound and helps in achieving threefold objectives. First, the communication of every entry in the ACR to a public servant helps him/her to work harder and achieve more that helps him in improving his work and give better results. Second and equally important, on being made aware of the entry in the ACR, the public servant may feel dissatisfied with the same. Communication of the entry enables him/her to make representation for upgradation of the remarks entered in the ACR. Third, communication of every entry in the ACR brings transparency in recording the remarks relating to a public servant and the system becomes more conforming to the principles of natural justice. We, accordingly, hold that every entry in ACR—poor, fair, average, good or very

¹ (2019) 4 SCC 276

good—must be communicated to him/her within a reasonable period.”

13. In view of the above statement of law, both the Tribunal and the High Court were in error in coming to the conclusion that CSIR being an autonomous entity and having adopted the OMs of the Department of Personnel and Training with effect from a specified date, the appellant could not make a grievance of the non-communication of the ACRs for the relevant period.

14. The failure to communicate the ACRs deprived the appellant of the opportunity to submit his representation in the matter of financial upgradation. Subsequently, the appellant was furnished with an opportunity to submit his representation before his case was taken up for regular promotion, but his representation was not considered.

15. The appellant did not have the benefit of submitting his representation when the Screening Committee took up the case for financial upgradation. CSIR by reason of its autonomy may have certain administrative privileges. No authority can, however, claim a privilege not to comply with a judgment of this Court. Once the law was enunciated in Dev Dutt case [Dev Dutt v. Union of India, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] , all instrumentalities of the State were bound to follow the principles laid down by this Court. CSIR was no exception.

16. The appellant has since retired from service on 30-9-2014.

17. The grant of MACP benefit is not a matter of right and it is after the Screening Committee finds that the officer meets the benchmark that an upgradation can be granted.

18. Hence, we are of the view that the appellant should be granted an opportunity, within a period of four weeks from today to submit his representation in respect of the ACRs for the years concerned where he did not fulfil the benchmark for financial upgradation. Upon the submission of his representation, the respondents shall consider it and communicate the outcome to the appellant within a period of two months thereafter. Based on that decision, the case of the appellant for financial upgradation shall be considered afresh. In the event his ACRs for the relevant period are upgraded, the case for financial upgradation shall be determined within a period of three months thereafter.”

5. Today, learned counsel for the Respondents produced a letter dated 02.09.2025, which has been taken on record.

6. The contents of the said letter indicates that the old records have been weeded out as they had exceeded the prescribed preservation period mandated by the Railway Board. However, they have admitted that for the year 2008, the ACR grading of the petitioner was recorded as Good.

7. In view of this letter as well as the settled proposition of law, the impugned order rejecting the financial upgradation in MACP does not sustain in the eyes of law and accordingly, the same is quashed and set aside.

8. However, since petitioner has already retired, interest of justice would suffice by directing the Respondents to give financial upgradation to the Petitioner from the date he was having good ACR grading. Admittedly, by letter dated 02.09.2025, it appears that in the year 2008, the petitioner's ACR was recorded as Good.

9. Accordingly, the Respondent No. 2 shall verify the records of the case of the Petitioner and after consultation with Respondent Nos. 3 and 4, shall take a decision in the matter as per Clause-17 of the Railway Board's letter dated 17.06.2009 and give the financial benefits for which the Petitioner is legally entitled. The entire exercise shall be completed within a period of 12 weeks from the date of receipt/production of copy of the order.

10. With the aforesaid observation and directions, the writ petition stands disposed of.

(Deepak Roshan, J.)

Kunal