Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 794 OF 2024

NANDAKISHORE S. MORASKAR … PETITIONER

VERSUS

UNION OF INDIA, THR. THE .
SECRETARY , MINISTRY OF
ELECTRONICS AND INFORMATION
TECHNOLOGY AND 2 ORS …RESPONDENTS

Mr. Shivraj Gaonkar, Advocate for the Petitioner.

Mr. Raviraj R. Chodankar, Central Government Standing Counsel for the Respondents.

CORAM:- BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.

DATED :- 24th July 2025

ORAL ORDER (*Per Bharati Dangre, J.*)

1. The grievance of the petitioner is very limited. The petitioner joined the services of respondent no. 3 as a Caretaker cum Security Supervisor in a temporary capacity with effect from 21.07.1995. By Office order dated 23.05.2000, the petitioner's designation was restructured and revised to Assistant 'C'. After his recruitment, the Assured Career Progression Scheme (hereinafter referred to as 'ACPS') of August 1999 was made applicable.

2. He was entitled to promotion, but the promotion offered to

him was kept in abeyance and according to the Department, it is because he refused the promotion.

By order dated 28.5.2002, it was directed that the promotion of the petitioner shall be kept in abeyance till further orders. However, the petitioner was conferred the benefit of first upgradation in the year 2007; the second upgradation on 17.02.2014, and the third upgradation on 03.08.2021.

3. The grievance of the petitioner is that when there was a transition from the Assured Career Progression Scheme to Modified Assured Career Progression Scheme (hereinafter referred to as 'MACPS'), pursuant to the Office Memorandum dated 19.05.2009, which directed the implementation of the MACPS as per recommendations of the Sixth Central Pay Commission, the mechanism for implementation of the same, was accordingly worked out.

The said Office Memorandum clearly contemplated that under MACPS there were three financial upgradations counted from the direct entry grade on completion of 10, 20, and 30 years of service, respectively. It is further clarified therein that such upgradation shall be admissible whenever an employee spent 10 years continuously in the same grade pay. The financial upgradation under the MACPS was held to be admissible upto the highest Grade Pay of Rs. 12,000 in Pay Band-IV.

4. To avail the benefit of MACPS, the Office Memorandum clearly stipulated that the benefit of pay fixation at the time of regular promotion shall also be allowed at the time of financial upgradation under the Scheme and the pay shall be raised by 3% of the total pay in the Pay Band and Grade Pay drawn before such upgradation. However, there shall be no further fixation of pay at time of regular promotion, if it is under the same Grade Pay as granted under MACPS. However, it was provided that at time of actual promotion, if it happens to be a next post carrying higher Grade Pay then what is available under MACPS, no pay fixation would be available and only in the difference in the grade pay would be made available.

This was specifically demonstrated by way of illustration in Clause No. 4 of the Scheme.

5. What is pertinent to note is that Clause No. 5 thereof, which

dealt with the transition phase, and this was clearly explained by contemplating two situations; (i) where on 01.01.2006, a person who did not get promotion, but would have got two financial upgradations and situation (ii) where a person has availed two promotions in the next higher grade, the illustration provided that they shall be brought in the same Grade Pay of Rs.4200 in the Pay Band-II. After implementation of the MACPS, however, it provided that two financial upgradations will be granted in situation (a) and (b) to the higher Grade Pay of Rs. 4600 and Rs.4800 in Pay Band-II.

The Clause No. 5 of the Office Memorandum along with the illustrations specifically read thus:

> *"5. Promotions earned/upgradations granted under the ACP Scheme in the past to those grades which now carry the same grade pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under Modified ACPS.*
>
> *The pre-revised hierarchy (in ascending order) in a particular organization was as Rs. 5000-8000, Rs. 5500-9000 & Rs. 6500-10500.*
>
> *(a) A Government servant who was recruited in the hierarchy in the pre-revised pay scale Rs.*

5000-8000 and who did not get a promotion even after 25 years of service prior to 1.1.2006, in his case as on 1.1.2006 he would have got two financial upgradations under ACP to the next grades in the hierarchy of his organization, i.e, to the pre-revised scales of Rs. 5500-9000 and Rs. 6500-10500.

(b) Another Government servant recruited in the same hierarch in the pre-revised scale of Rs.5000-8000 has also completed about 25 years of service, but he got two promotions to the next higher grades of Rs. 5500-9000 & Rs. 6500-10500 during this period.

In the case of both (a) and (b) above, the promotions/financial upgradations granted under ACP to the pre-revised scales of Rs. 5500-9000 and Rs. 6500-10500 prior to 11.2006 will be ignored on account of merger of the pre-revised scales of Rs. 5000-8000, Rs. 5500-9000 and Rs. 6500-10500 recommended by the Sixth CPC. As per CCS (RP) Rules, both of them will be granted grade pay of Rs. 4200 in the pay band PB-2. After the implementation of MACPS, two financial upgradations will be granted in the case of (a) and (b) above to the next higher grade pays of Rs. 4600 and Rs. 4800 in the pay band PB-2.

6. In the case of all the employees granted financial upgradations under ACPS till 01.01.2006, their revised pay will be fixed with reference to the pay scale granted to them under the ACPS."

6. As far as the petitioner is concerned, since he also happens to be in the transition phase, after he availed the first ACP in 2007 and before he became eligible to avail the second benefit under the

MACPS in the year 2014, it is his case that the Clause No. 5 of the scheme should be adopted. However, since this has not been taken into consideration the limited grievance made in the petition is that his representation dated 25.07.2024 deserve a consideration.

7. Since the Office Memorandum had made provision for dealing with the transitional phase for the employees those who have availed or those who are entitled to avail the benefit that the ACPS and when they fell in the ambit of MACP and are either entitled or have been granted benefit under MACP, the transition phase cannot be lost sight of. Since the Office Memorandum itself made provision for the same, the case of the petitioner definitely deserve consideration in the light of the same.

8. In the wake of the above, we expect the Director General, Directorate of Standardisation, Testing & Quality Certification (STQC), i.e. respondent no. 2 to consider the representation dated 25.07.2024, in light of the grievance made there in and in light of Clause No. 5 of the Office Memorandum dated 19.05.2009, and communicate the decision taken therein, to the petitioner, within a period of 8 weeks from today.

9. With these directions petition is disposed of.

NIVEDITA P. MEHTA, J. **BHARATI DANGRE, J.**

Signed by: SHAKUNTALA ZALMI
Designation: Personal Assistant
Date: 29/07/2025 12:13:03