



2025:DHC:10930-DB



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

Date of decision: 03.12.2025

(15)+ W.P.(C) 96/2021 & CM APPL. 288/2021

UNION OF INDIA

.....Petitioner

Through: Mr. Vikrant N Goyal, Mr. Yash Basoya, Mr. Kunal Dixit and Mr. Piyush Wadhwa, Advs.

versus

SHRI. HARI PREM MALIK

.....Respondent

Through: Mr. Padma Kumar and Mr. Gurpreet Singh, Advs. for R1, R4, R5, R7.

(16)+ W.P.(C) 5865/2021 & CM APPL. 18422/2021, CM APPL. 18423/2021, CM APPL. 18461/2021

UNION OF INDIA AND ORS. & ORS.

.....Petitioners

Through: Mr. Vikrant N Goyal, Mr. Yash Basoya, Mr. Kunal Dixit and Mr. Piyush Wadhwa, Advs.

versus

AJAY GOEL

.....Respondent

Through: Mr. Padma Kumar and Mr. Gurpreet Singh, Advs. for R1, R4, R5, R7.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. These petitions have been filed challenging the Orders dated 04.12.2018 and 16.04.2019 passed by the learned Central Administrative



Tribunal, Principal Bench, New Delhi (hereinafter referred to as, the 'Tribunal') in O.A. No. 4276/2013, titled *Hari Prem Malik & Ors. v. Union of India through Secretary & Ors.*, and O.A. No. 198/2014, titled *Ajay Goel v. Union of India through Secretary & Ors.*, respectively, whereby the said O.As. were allowed.

2. The aforesaid O.As. had been filed by the respective respondents herein, challenging the orders by which they were denied the benefit of the 3rd Modified Assured Career Progression (MACP) on completion of thirty years of service on the ground that they had already earned a Non-Functional Upgradation (NFU).

3. The learned counsel for the respondents submits that the issues raised by the petitioners are now covered by the Judgment of this Court in *Union of India v. H M S Tanwar & Ors.*, 2021:DHC:3198-DB, as also by the Judgment of the Supreme Court in *Union of India & Ors. v. N.M. Raut & Ors.*, 2024 SCC OnLine SC 3873.

4. He fairly submits that since some of the respondents could not avail of the benefit of the NFU as they were already posted on a higher pay scale, they shall be entitled to be granted the 3rd MACP benefit in terms of *H M S Tanwar* (supra), while those who had availed of the grant of the NFU, would not be entitled to the 3rd MACP benefit in terms of *N. M. Raut* (supra).

5. The aforesaid position is accepted by the learned counsel for the petitioners.

6. In view of the above, the petitions, along with the pending applications, are disposed of with the direction that if the respondents or any of them have not availed of the NFU granted to them, as they were



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already placed in a higher pay scale, they shall be entitled to the grant of the 3rd MACP benefit in terms of the OM dated 19.05.2009; if on the other hand, the order extending the benefit of NFU has been implemented qua the respondents or any of them, and those respondents have availed of such benefit, they shall not be entitled to the benefit of the MACP.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 3, 2025/b/Av/Yg