



2025:DHC:593-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 21/2025, CM APPL. 1560/2025, CM APPL. 1561/2025 &
CM APPL. 1562/2025

DAV MODEL SCHOOL & ANR.Appellants
Through: Mr. Atul Kumar, Adv.

versus

DIRECTORATE OF EDUCATION & ORS.Respondents
Through: Mr. K.S. Kashyap, Adv. for R-4

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% **30.01.2025**

C. HARI SHANKAR, J.

1. This appeal is directed against order dated 8 October 2024 passed by a learned Single Judge of this Court in WP(C) 4431/2017.

2. The aforesaid writ petition was preferred by one Neetu Kumar, who is Respondent 4 herein, for a direction to the appellant school to release her salary in the grade of Trained Graduate Teacher w.e.f. 19 September 2006. During the course of the proceedings, however, Respondent 4 pressed the relief only with respect to grant of financial upgradations under the Modified Assured Career Progression Scheme (MACP) as prayed in prayer clause (iv) and (v) of the writ petition.

3. During the course of the writ petition, the following order came

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to be passed by this Court on 29 August 2019.

“On 25.09.2017, ld. counsel for the petitioner stated before the Court that the school may grant benefits of Modified Assured Career Progression Scheme (MACP) to her. Today, ld. counsel for the petitioner, on instructions, submits that the petitioner asserts the relief limited to the said aspect, with the consequential reliefs as prayed in clause (iv) and (v). During the course of hearing, ld. counsel for the respondents concedes that the petitioner is entitled to second MACP from July, 2017.

In the given factual conspectus and the totality of the facts and circumstances, it is directed that the respondents shall grant second MACP to the petitioner from July, 2017 within four weeks from today. The arrears of benefits of second MACP shall be released to the petitioner within four weeks thereafter. It is made clear that that question of payment of interest is kept open.

List on 20.11.2019.”

4. The aforesaid order was never challenged by the appellant or questioned by way of review, modification, recall or any other cognate proceedings, it, therefore, attained finality.
5. It appears that, despite having conceded before the learned Single Judge that the Respondent 4 was entitled to the benefits of the second MACP w.e.f. July 2017, the said benefits were not released.
6. The impugned order has been passed finally disposing of the writ petition.
7. The learned Single Judge has taken a serious view of the fact that there has been no complete compliance with the order dated 29 August 2019.



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8. In view of the aforesaid, the learned Single Judge has observed and directed as under:

“4. Indisputably, this order was never challenged by the School/Respondent No.5 and has attained finality. Despite an assurance given to the Court to file an affidavit indicating the amounts paid to the Petitioner towards grant of MACP benefits, complete benefits have not been released to the Petitioner. Petitioner claims that she has been working with the School continuously since 16.07.1997 without any break and was drawing a pay scale of Rs.4500-7000 under the 5th CPC and is entitled to two Financial Upgradations till 2017, when she completed 20 years of regular service, whereas Respondent School has granted First MACP benefit in 2017 and the Second MACP from 2019 pursuant to the direction of this Court, leading to a financial loss to the Petitioner. Petitioner has placed on record a rejoinder affidavit dated 19.12.2023, wherein she has detailed the MACP benefits due to her along with charts indicating her salary and emoluments. This affidavit and the documents annexed thereto are uncontroverted. In view of the direction of the Court given way back on 29.08.2019 to pay the MACP benefits to the Petitioner, which is unassailed, there is no doubt that the Respondent School cannot today take a stand that Petitioner is not entitled to the Second Financial Upgradation under the MACP Scheme.

5. Accordingly, this writ petition is disposed of directing the Respondent School to work out the balance amounts payable to the Petitioner on account of the two Financial Upgradations under the MACP Scheme after examining the details given by the Petitioner in the rejoinder affidavit dated 19.12.2023. The entire exercise shall be completed by the School within 8 weeks from the date of receipt of this order and needless to state that the payments shall be released with interest @ 6% per annum from the date they became due till the date of actual payment.”

9. The present appeal has been filed assailing the aforesaid order dated 8 October 2024 passed by the learned Single Judge.

10. We have heard Mr. Atul Kumar, learned Counsel for the appellant at some length.



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11. On the Court querying as to why the impugned order of the learned Single Judge should be interfered with, given the concession made before the learned Single Judge on 29 August 2019, Mr. Kumar submits that the concession is contrary to law as well as the record.

12. We are not prepared to countenance this submission at this stage of time. Nearly 5 and half years have passed since the aforesaid statement was made. Even on the date of passing of the impugned judgment of the learned Single Judge, over five years had passed since the making of the said statement. During this period of five years, no attempt was ever made to recall, modify or challenge the order dated 29 August 2019.

13. A litigant before the Court is bound by the statement made to the Court. If the litigant seeks to resile from the statement, it has to do so in accordance with known legal procedure. It cannot wish away the statement and, when the writ petition is finally decided relying on it, seek to contend that the statement was not in accordance with law.

14. Allowing such a practice would throw legal procedure into complete disarray.

15. We, therefore, find no reason to interfere with the impugned judgment of the learned Single Judge which is upheld in its entirety. We direct that the financial benefits to which the respondent is due on the basis of the statement dated 29 August 2019 be released to her positively within one week from today along with interest, as directed by the learned Single Judge.



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16. The appeal is accordingly dismissed.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 30, 2025

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Click here to check corrigendum, if any