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

Reserved on:11.03.2025
Pronounced on: 21.04.2025

\+ W.P.(C) 3585/2018

VINEET KUMAR .....Petitioner
Through: Mr. Sureshan P., Adv.

versus

UNION OF INDIA & ORS .....Respondents
Through: Mr. Vivek Goyal, CGSC with Mr. Gokul Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioner, praying for the following reliefs:

> *"a) Issue of writ of certiorari and quash the office memorandum dated 27.9.2016 issued by the DOPT whereby 'The bench mark for granting financial up gradation under MACPS is changed to 'very good' from 'good' by making it applicable from 25.7.2016 and thus giving a retrospective effect.*
> *Or*
> *b) In the alternative declare that the effect of office memorandum dated 27/28.9.2016 of DOPT will have application for the bench mark done from the date of its operation and not for the previous years as the employee who have got the grading done prior to the issuance of the office memorandum will not be required to obtain 'very good' and his case for financial up gradation for MACPS should required to be considered on the basis of bench mark of 'good' for previous three years*
> *c) Consequentially quash and set aside the letter dated 30.11.2017 issued by the DIG*

> *CISF, Unit IGI airport whereby the petitioner had been denied financial up gradation on account of not having three 'very good' out of previous five years APR/APAR*
> *d) Direct the respondents to grant first financial up gradation to the petitioner on the basis of 19.5.2009 notification of MACPS from the date of his eligibility and also direct them to pay the entire arrears of pay along with interest @18 per annum."*

Brief Facts:

2. It is the case of the petitioner that the petitioner was recruited in Central Industrial Security Force (in short, 'CISF') as a Constable on 14.08.2000, and was thereafter posted in various Units. The petitioner was promoted to the post of Sub-Inspector with the CISF on 15.07.2007 through a Limited Departmental Competitive Exam (in short, 'LDCE').

3. It is the case of the petitioner that on 16.07.2017, he completed 10 years of service in the post of Sub-Inspector with a grade pay of Rs.4200/-, and became entitled to be considered for the grant of the 1^{st} MACP, however, the respondents failed to grant the 1^{st} MACP to the petitioner. The petitioner submitted a representation to the respondent no.3 seeking the benefit of 1^{st} MACP, and *vide* the Office Order dated 30.11.2017, issued by the respondent no.3, the representation of the petitioner was rejected on the ground that he was not having three 'very good' gradings in his Annual Confidential Report (ACR)/Annual Performance Assessment Report (APAR) for the last five years, therefore, he is not entitled to the 1^{st} MACP upgradation. The petitioner claims that he is having the benchmark of 'good' for

three out of five previous years in his ACR/APAR.

4. It is not denied that in terms of the Office Memorandum No.35034/3/2008-Estt (D) dated 19.05.2009 issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) (in short, 'DoPT'), the Government accepted the recommendation of the 6th Central Pay Commission (in short, 'CPC') and introduced the Modified Assured Career Progression (in short, 'MACP') Scheme with further modification to grant three financial upgradations at intervals of 10, 20 and 30 years of continuous regular service. The said scheme was in supersession of the old Assured Career Progression (ACP) Scheme. The MACP was to become operational with effect from 01.09.2008. The financial upgradation was to be on a non-functional basis, subject to fitness, in the hierarchy of grade pay within the PB-l. For financial upgradation under the MACP Scheme, the benchmark of 'Good' was applicable till the grade pay of Rs.6600/- in PB-3, and the benchmark of 'Very Good' was applicable for the grade pay of Rs.7600/- and above.

5. The DoPT, *vide* the Office Memorandum E.No.35034/372015-Estt.(D) dated 27/28.09.2016, accepted the report of the 7th CPC whereby the benchmark for performance appraisal for promotion and financial upgradation under the MACP Scheme was enhanced from 'Good' to 'Very Good'. The change was to come into effect from 25.07.2016.

6. As the petitioner had not obtained 3 APAR gradings of 'very

good' in the 5 years preceding the year of the DPC, his representation against the non-grant of MACP was rejected *vide* the Impugned Order dated 30.11.2017.

Submissions by the learned counsel for the petitioner:

7. The learned counsel for the petitioner, placing reliance on the Office Memorandum No.35034/3/2015-Estt.(D) dated 22.10.2019 issued by the DoPT, submits that in terms of Clause 17 of the Scheme attached thereto, the benchmark for the APARs up till the year 2015-2016 was continued to be as per the MACP Guidelines issued *vide* Office Memorandum No.35034/3/2008-Estt (D) dated 19.05.2009 by the DOPT, which is, 'Good'. He submits that applying the said yardstick, the petitioner would be entitled to the grant of the 1st MACP.

Submissions by the learned counsel for the respondents:

8. On the other hand, the learned counsel for the respondents reiterates that as the petitioner was not meeting the prescribed benchmark stipulated *vide* the Office Memorandum E.No.35034/372015-Estt.(D) dated 27/28.09.2016 issued by the DOPT, he was rightly denied the benefit of the 1st MACP.

Analysis and findings:

9. We have considered the submissions made by the learned counsels for the parties.

10. It is not denied that in terms of the Office Memorandum No. E.No.35034/372015-Estt.(D) dated 27/28.09.2016, the benchmark for grant of the MACP was upgraded to 'Very Good' in at least three out of five last ACRs, hence, if strictly applied, the petitioner would not have met the prescribed criteria for the grant of the 1st MACP. However, this would not be the end of the matter.

11. The DoPT, by the Office Memorandum No.35034/3/2015-Estt.(D) dated 22.10.2019, has issued the "Consolidated Guidelines Regarding Modified Assured Career Progression Scheme for the Central Government Civilian Employees". The Paragraph 17 of the said Scheme reads as under:

> *"17(i). For grant of financial upgradation under the MACP Scheme, the prescribed Benchmark shall be 'Very Good', for all levels. This shall be effective for upgradations under MACPS falling due on or after 25.07.2016 and the revised benchmark shall be applicable for the APARs for the year 2016-17 and subsequent years.*
>
> *17(ii). While assessing the suitability of an employee for grant of MACP, the Departmental Screening Committee (DSC) shall assess the APARs in the reckoning period. The benchmark for the APARs for the years 2016-17 and thereafter shall be 'Very Good'. The benchmark for the years 2015-16 and earlier years shall continue be as per the MACP guidelines issued vide DoPT O.M. dated 19.05.2009: "The financial upgradation would be non-functional basis subject to fitness in the hierarchy of grade pay within the PB-I. Thereafter for upgradation under the MACPS the benchmark of 'good' would be applicable till the grade pay of Rs.6600/- in*

PB-3. The benchmark will be 'Very Good' for financial upgradation to the grade pay of Rs.7600 and above." For example, if a particular MACP falls due on or after 25.07.2016, the following benchmarks for APARs are applicable:

APAR for the year	*Benchmark grading for MACP for Level 11 and below*	*Benchmark grading for MACP for Level 12 and above*
2013-14 and earlier years	*Good*	*Very Good*
2014-15	*Good*	*Very Good*
2015-16	*Good*	*Very Good*
2016-17	*Very Good*	*Very Good*
2017-18 and subsequent years	*Very Good*	*Very Good*

12. By the reading of the above, it would now be apparent that while assessing the suitability of an employee for grant of MACP, the Departmental Screening Committee has to assess the APARs for the benchmark for the year 2016-2017 and thereafter to be 'Very Good'. However, the benchmark for the years 2015-2016 and the earlier years would continue to be as per the MACP Guidelines issued by the DoPT *vide* Office Memorandum No.35034/3/2008-Estt (D) dated 19.05.2009, which is, 'Good' till the Grade Pay of Rs.6600/- in PB-3 and 'Very Good' for Grade Pay of Rs.7600/- and above, as also held

by this Court in ***Narender Kumar v. Union of India & Ors.***, 2025 SCC OnLine Del 1378.

13. In the present case, as the petitioner was falling within the Grade Pay of Rs.4600/-, therefore, he continued to be governed by the benchmark of 'Good' for the years 2015-2016 and earlier, and met the benchmark for the grant of the 1st MACP.

14. Accordingly, we set aside the Impugned Order dated 30.11.2017 and direct that the case of the petitioner be placed by the respondents before the appropriate authority within a period of eight weeks from today, which shall take a decision on the grant of the 1st MACP to the petitioner by applying the benchmark of 'good' till the year 2015-2016 and 'very good' thereafter, as also the relevant rules applicable thereto.

15. The arrears, if any, found payable, shall be released to the petitioner within a period of four weeks thereafter alongwith interest at the rate of 6 % per annum.

16. The petition is disposed of with the above directions.

NAVIN CHAWLA, J

TEJAS KARIA, J

APRIL 21, 2025/*VS/SJ*