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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 02.07.2025

+ W.P.(C) 6532/2010
BALKRISHAN BARNABAS & ANRPetitioners
Through: Mr.Ankur Sood, Ms.Romila
Mandal, Mr.Prajual Suman,
Adv.

versus

UOI & ORSRespondents
Through: Mr.Ripudaman Bhardwaj,
CGSC, Mr.Kushagra Kaushal,
Mr.Amit Kr. Rana, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 16.06.2009 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in OA 710/2008, titled ***Shri Rajender Singh Ahuja & Ors. v. The Secretary, Ministry of Defence & Ors.***, dismissing the OA filed by the petitioners herein.
2. The petitioners have also challenged the Order dated 28.04.2010 passed by the learned Tribunal in the Review Application, being RA 109/2010, by which the learned Tribunal has dismissed the Review Application filed by the petitioners.
3. To give a brief background of the facts in which the present



petition arises, the petitioner no.1 was appointed to the post of Turner Skilled HS Grade-I on 29.07.1981. He was promoted to HS Grade-II on 15.10.1984. Thereafter, the HS Grade-I and HS Grade-II posts were merged together, on 30.05.2003 with effect from 01.01.1996, having the pay scale of Rs.4000-Rs.6000. The petitioner no.1 was granted what was claimed to be the second ACP only on 29.07.2005 in the Pay Scale of Rs.5000-8000.

4. Similarly, the petitioner no. 2 was appointed as Turner Skilled on 22.11.1973 and was promoted to HS Grade II on 15.10.1984. This has been treated as promotion in spite of merger of HS Grade I with HS Grade II on 30.05.2003 with effect from 01.01.1996.

5. The petitioners herein filed the above OA claiming that due to the merger of HS Grade-I and HS Grade-II, the promotion granted to them to the post of HS Grade-II could not be considered as a promotion for the purpose of ACP and therefore, they were entitled to grant of First ACP on completion of 12 years of service.

6. The learned counsel for the petitioners, placing reliance on OM No. F. No. 35034/1/97-Estt(D)(Vol.IV) dated 10.02.2020, submits that the ACP scheme has been clarified in the said OM and it has been stated that in case of merger of the posts, ACP shall be in the hierarchy existing after the merger of the pay scales by ignoring the promotion. He also places reliance on the judgment of this Court passed in **Pawan Kumar Sharma v. Union of India & Ors.**, 2019 SCC OnLine Del 7077.

7. On the other hand, the learned counsel for the respondents submits that the petitioners having secured promotion to the post of



HS Grade-II, were not entitled to the first ACP. He submits that later merger of the two posts will not have any effect on this position.

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

9. The OM No. F. No. 35034/1/97-Estt(D)(Vol.IV) dated 10.02.2020, insofar as the merger of the posts and its effect on the ACP is concerned, has issued the following clarification:

“Since the benefits of upgradation under ACP Scheme (ACPS) are to be allowed in the existing hierarchy, the mobility under ACPS shall be in the hierarchy existing after merger of pay-scales by ignoring the promotion. An employee who got promoted from lower pay-scale to higher pay-scale as a result of promotion before merger of pay-scales shall be entitled from upgradation under ACPS ignoring the said promotion as otherwise he would be placed in a disadvantageous position vis-a-vis the fresh entrant in the merged grade.”

10. This Court in **Pawan Kumar Sharma** (supra), relying on the above OM and the earlier judgment of this Court in **Om Prakash & Ors. v. Union of India & Ors.**, 2015 SCC OnLine Del 7822, held that an employee who got promoted from a lower pay scale to a higher pay scale before the merger of pay scales, would still be entitled to upgradation ignoring the said promotion for the purposes of grant of ACPs. This has been reiterated by this Court in its subsequent judgments, including in **Suresh Kumar and Anr. v. Union of India & Anr.**, 2025 SCC OnLine Del 1536.

11. Keeping in view the above, the effect of promotion from HS Grade-I to HS Grade-II granted to the petitioners stood negated by the



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merger of two posts. The petitioners were, therefore, entitled to the first ACP on completion of 12 years of their service from initial appointment.

12. Accordingly, the Impugned Order is set aside. The respondents are directed to rework and grant the consequential benefits to the petitioners along with interest @ 6 % per annum from the date of their entitlement for the same. This exercise must be completed within a period of twelve (12) weeks from today.

13. The petition along with pending application, if any, is, accordingly, disposed of in the aforesaid terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 2, 2025

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Click here to check corrigendum, if any