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

+ W.P.(C) 11437/2017

MD. NURJAHAN ALI

.....Petitioner

Through: Dr. Surender Singh Hooda,
Adv.

versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Vivek Goyal, CGSPC with
Mr. Gokul Sharma, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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19.03.2025

AJAY DIGPAUL, J.

1. The relevant facts that emerged from the pleadings are as follows:

Md. Nurjahan Ali/the petitioner was enrolled as a Constable in the Border Security Force¹ on 02.01.1981. Over the course of his service, he was promoted to the rank of Lance Naik in 1991 and subsequently to the rank of Naik in 1994.

2. In the year 1997, a policy decision resulted in the merger of the ranks of Lance Naik with Constable and Naik with Head Constable. Accordingly, the petitioner's designation evolved, and on 10.10.1997,



he was promoted to the rank of Head Constable. Throughout his service, the petitioner claims to have discharged his duties diligently and without any adverse remarks on his record.

3. The dispute in the present case originates from the petitioner's claim for financial upgradation under the Assured Career Progression² Scheme, introduced by the Government of India through O.M. No. 35034/1/97-Estt(D) dated 09.08.1999. The scheme sought to provide financial relief to employees who had served long tenures without promotional opportunities, ensuring two financial upgradations; one upon completion of 12 years of service and another upon completion of 24 years.

4. By virtue of this scheme, the petitioner became eligible for his second financial upgradation on 02.01.2005, upon completing 24 years of service. However, the petitioner asserts that despite fulfilling all the substantive requirements for financial upgradation, he was denied the benefit on the ground that he had not successfully completed the BSF First-Class Course before 02.01.2005.

5. The petitioner challenges this denial on multiple grounds. First, he contends that the requirement of completing the BSF First-Class Course was not originally stipulated as a pre-requisite for ACP benefits under the 1999 scheme. He further asserts that his inability to undergo the course in a timely manner was due to the failure of the BSF administration to detail him for the same, a lapse that cannot be



held against him. The petitioner relies on the judgment of this Court in ***Ram Avtar Sharma v Director General, BSF & Ors.***³, wherein it was held that the failure of an employee to complete a pre-promotion course due to administrative lapses cannot be used to deny financial upgradation. In compliance with the judicial pronouncements in ***Ram Avtar Sharma*** (*supra*), the BSF Headquarters issued an order dated 22.09.2014 (F. No. 38/1/11(35)/2013-BSF/PT-VI/59657-60007), which clarified that personnel who had completed 12 or 24 years of service but had not undergone pre-promotion courses due to administrative reasons should not be denied ACP benefits.

6. On 31.03.2017, the Adjutant 167 BN BSF through an order, rejected the benefit of ACP scheme of 1999, on the sole ground that the petitioner had completed the BSF First-Class Course only on 24.10.2009, well after his eligibility date for ACP.

7. Furthermore, the petitioner submitted a legal notice on 08.08.2017 to the Director General, BSF, seeking redressal and requesting the grant of ACP benefits w.e.f. 02.01.2005. The said notice was examined by the Deputy Inspector General, Sector Headquarter, BSF, Kishanganj and a reply was given vide letter no. Estt/554/SHQKNJ/2017/18568-70 dated 26.12.2017.

8. Aggrieved by this, the present petition has been filed under Article 226 of the Constitution of India, wherein the following reliefs are sought:

² “ACP”. hereinafter

³ 2014 SCC OnLine Del 7765



“a) Issue a writ order or direction in the nature of certiorari for quashing/ setting aside the Impugned Order No. Estt./ACP/167 BN/17/934-35 dated 31.03.2017 passed by the Adjutant 167 BN BSF;

b) Issue a writ order or direction in the nature of Mandamus directing the Director General BSF and decide the representation of the petitioner and grant the Second ACP Benefits to the petitioner with effect from 2.1.2005 with all consequential benefits.

c) Pass such other or orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

9. The petitioner also requests this court to take into consideration an order passed by the Co-ordinate Bench of this Court in ***Ram Singh v Union of India & Ors.***⁴ wherein the reasoning adopted applies squarely to the present case as well.

10. In ***Ram Singh (supra)***, the petitioners were denied the second ACP on the ground that they had not completed the pre-promotional Civil Examination-1⁵, a requirement that was not present at the time of their appointment. The court found that the petitioners were never detailed for the required course and therefore directed the respondents to extend them the benefit of the ACP by overlooking the requirement if they had not been detailed for CE-1.

11. Similarly in the present case, the petitioner, having joined BSF on 02.01.1981, claims that he was never informed that completing the BSF First-Class Course would be a pre-condition for financial upgradation. This requirement was introduced later, after he had already completed 24 years of service and had become eligible for the



second ACP on 02.01.2005.

12. If we apply the rationale taken by the court in *Ram Singh* (*supra*), the petitioner should not be denied the ACP benefit merely because a requirement was imposed after his appointment and he was never given a chance to fulfil that requirement.

13. We therefore, direct that the respondents must examine the petitioner's service record and determine whether he was ever detailed for the BSF First-Class Course prior to the completion of 24 years of service. If it is found that the petitioner was not detailed for the course, then he must be granted the second ACP from the date he completed 24 years of service, i.e., 02.01.2005, along with all consequential benefits. However, if the respondents establish that the petitioner was given an opportunity to complete the course but failed to do so, then the benefit may not be extended to him.

14. The writ petition is disposed of.

AJAY DIGPAUL, J.

C. HARI SHANKAR, J.

MARCH 19, 2025

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Click here to check corrigendum, if any