

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 24510 of 2016

Sujit Majumdar

-Vs-

Union of India & Ors.

For the Petitioner : Ms. Sangita Banerjee

For the Respondents/CISF : Mr. Uttam Basak

Heard on : 17.07.2025, 24.09.2025,

Judgment on : 03.02.2026

Ananya Bandyopadhyay, J.:-

1. The petitioner asserted to have entered into service under Central Industrial Security Force on 10.03.1985 as a Constable at the CISF Unit, Vishakhapatnam Port Trust and rendered more than three decades of continuous service. It was his categorical case throughout 31 years of service, he discharged his duties with sincerity and devotion leaving no blemish or adverse mark upon his service record.
2. It was stated upon completion of 12 years of service, the petitioner was granted the first financial upgradation under Modified Assured Career Progression Scheme (MACP) in the year 1997 and thereafter the second MACP in the year 2009. Consequently his pay was fixed in the pay band of Rs.5,200-20,200/- with a Grade Pay of Rs.2,800/- and corresponding basic pay.

3. After completion of more than 30 years of service, the respondent authorities, by order dated 7th January 2016, approved the third MACP in favour of the petitioner, fixing his pay in the same pay band with an enhanced Grade Pay of Rs.4,200/- and revised basic pay. However, the petitioner contended that abruptly from August 2016, the respondent authorities withdrew the benefit of the enhanced Grade Pay of Rs.4,200/-, reverted his pay to Grade Pay of Rs.2,800/- and adjusted the alleged, excess amount already disbursed against his annual increments without granting any special increment.
4. Compellingly, the petitioner filed a written representation on 08th August 2016. Although the respondent authority intimated that the resultant pay fixation was pursuant to notifications dated 29.07.2016, and 01.08.2016, such notifications were admittedly not furnished to the petitioner, thereby depriving him of an opportunity to understand or challenge the basis of the adverse action.
5. The petitioner further contended under the MACP Scheme, three assured financial upgradations were contemplated on completion of 10, 20 and 30 years of service and the conditions applicable under the earlier Scheme such as qualifying PCC or attaining SHAPE-I categorisation were expressly dispensed with by the CISF Circular dated 8th January 2014. In light of the said Circular, delay or non-qualification under earlier ACP norms could not have any consequential or differential impact on the grant of second or third MC benefits.
6. It was the petitioner's consistent case that in absence of any statutory bar under the CISF Act, 1968, the respondent authorities acted arbitrary and without jurisdiction in discontinuing the grade pay already granted. Any

subsequent circular or administrative instruction, according to the petitioner cannot override or dilute the recommendations of the Sixth Central Pay Commission of the statutory framework and any such action is *ultra virus*, unconstitutional and violative of Articles, 13 14, 16, 21, and 300 A of the Constitution of India.

7. The petitioner challenged the purported decision dated 11th August 2016, whereby the third MACP was denied as being vague, unsupported by reasons, punitive in effect and vitiated by *mala fide*. It was alleged the decision was vindictive in nature violating the principles of natural justice and it founded on wholly baseless and unsubstantiated allegations, thereby warranting judicial interference.
8. The grievance articulated was that the withdrawal of the third MACP and consequential recovery was arbitrary, illegal and unconstitutional, having been effected without authority of law without transparency and incomplete disregard of the governing scheme, binding circulars, and the petitioners long unblemished service.
9. The Learned Advocate representing the petitioner assailed the impugned actions of the respondent authorities as being manifestly arbitrary, high-handed and vitiated by *mala fide*. It was submitted that the withdrawal of the third financial upgradation and the consequential discontinuation of the enhanced Grade Pay were not founded on any statutory provision, but were activated by extraneous considerations, thereby rendering the impugned memorandum dated, 28th January 2016 and the subsequent communication dated 11th January 2016, unsustainable in law.
10. It was contended that the petitioner, having completed the requisite length of service, was otherwise fully entitled to the benefit of the third

MACP, particularly in view of CISF Circular No.01/2014 dated 8th January 2014, which expressly diluted the earlier ACP linked conditions such as PCC qualification and SHAPE-I medical categorisation. The denial of MACP, it was argued was in teeth of the governing circular and the very object of the MACP Scheme.

11. The Learned Advocate for the petitioner submitted that in the absence of any statutory bar under the Central Industrial Security Force Act, 1968, the respondent authorities had no jurisdiction to withdraw a benefit once granted. Any, subsequent Rule, circular or administrative instruction that derogated from the recommendations of the Sixth Central Pay Commission or curtailed a vested financial benefit was contended to be *ultra vires*, unconstitutional, and liable to be struck down.
12. It was urged that the impugned memorandum had been vague, unreasonable, and punitive, having been issued without providing the petitioner an opportunity of hearing, thereby violating the principles of natural justice. The action, according to the petitioner, is not really illegal but vindictive offending Articles, 14, 16 and 21 of the Constitution of India and therefore, calls for judicial interference and quashing.
13. Per contra, the Learned Advocate representing the respondent submitted that the petitioner was appointed as a constable in the CISF on 10th March, 1985 and had since served in various units, the last posting being at CISF unit, NRL Numaligarh, Assam. It was contended that the petitioner's case for grant of financial upgradation was periodically considered strictly in accordance with the applicable ACP and MACP schemes and the instructions issued by the competent authority.

14. It was submitted that the petitioner's service record revealed the imposition of minor and petty punishments and that his ACR/APAR gradings did not consistently meet the prescribed benchmark of 50% during the relevant years on account of which he was found, "Not Yet Fit" for grant of the third financial upgradation in 2014 and 2015 by the Screening Committee. The decision, it was argued was neither arbitrary nor punitive based on objective assessment of service records.
15. The Learned Advocate for the respondent submitted that the petitioner's case was again placed before the Screening Committee on 7th January, 2016, where upon he was found fit and was accordingly granted the third FUG under the MACP scheme with effect from that date, followed by fixation of pay. However, pursuant to the implementation of the revised Pay Rules notified in July 2016, and the Office Memorandum issued by the Ministry of Finance, the pay fixation was revisited and re-fixed in accordance with law, leaving no element of arbitrariness. It was contended that no procedural irregularity or illegality attended the decision making process and that the impugned actions were taken strictly in conformity with statutory Rules, executive instructions and pay revision notifications. The respondent therefore submitted that the writ petition is devoid of merit and does not warrant interference under Article 226 of the Constitution.
16. This Court reiterates that the power of judicial review under Article 226 does not extend to appreciation of service records or substitution of the Court's view for that of the duly constituted Screening Committee. Unless substation demonstrates for perversity, *mala fides*, non-consideration of relevant materials or consideration of extraneous factors, the Court will

not interfere with administrative assessments relating to eligibility for financial progression. No such informality is established in the present case.

17. The record placed by the respondent reveals that the petitioner suffered minor punishments and did not secure the prescribed benchmark grading of 50% in multiple relevant years. These deficiencies were not incidental but stood directly connected to his fitness for financial upgradation. The Screening Committee in its deliberations in 2014 and 2015, found him “Not Yet Fit” based on objective evaluation of such entries. The petitioner has neither disproved the existence of such material nor demonstrated its irrelevance.
18. In service jurisprudence, the existence of below-benchmark ACs constitutes a valid ground for denial of MACP benefits. The petitioner cannot claim an indefeasible right to the third upgradation merely on the strength of length of service.
19. The petitioner’s attempt to treat the approval dated 07.01.2016 as a conclusive and irreversible conferment is legally misconceived. The record revealed that the initial approval was provisional and subject to scrutiny under the revised pay fixation instructions issued in July/August 2016. The respondent was statutorily obliged to bring pay fixation in conformity with the updated Rules. The subsequent correction, though adverse to the petitioner, was neither punitive nor arbitrary but a necessary administrative step to align service benefits with revised norms.
20. Judicial review cannot invalidate an administrative correction that ensures compliance by binding pay regulations nor can the judicial review extend its effectivity to the administrative domain of the respondents to

assess the performance of an employee in his service and alter or modify the performance report, since the same is beyond the scope of this Court to interfere with the independent jurisdiction of the respondent to scrutinise the performance of an employee with specific knowledge of such performance exclusively existing within the purview of the administration of the respondents.

21. The petitioner's argument that he is entitled to a prior hearing before the correction of pay fixation is untenable. A financial adjustment resultant pursuant to statutory Rules, uniformly applicable to all similarly situated personnel, does not attract the requirement of a personal hearing unless it carries a stigma or punitive consequence. The re-fixation of grade pay consequent upon implementation of revised MACP guidelines is a non-adversarial, non-penal administrative act. The doctrine of *audi alteram partem* is not attracted to purely mechanical adjustments in pay structures mandated by the Rule.
22. The petitioner has failed to establish that the respondent acted with oblique motive, that irrelevant considerations were weighed or that relevant material was excluded. The administrative decisions appear decent, record based and consistent with statutory instructions. The burden of proving arbitrariness or *mala fides* lies heavily upon the petitioner and that burden remains un-discharged. The invocation of Articles 14, 16 and 21 of the Constitution of India is without factual foundation. ACR benchmarks and recorded punishments are objective differentiators duly recognised in service law. The petitioner's grievance does not implicate any constitutional right but relates solely to the

internal mechanics of pay fixation and area where judicial intervention is intentionally narrow.

23. The writ petition is a classic attempt to convert a service irregularity into a constitutional claim, without demonstrating any violation of law. The petitioner's arguments, selective reading of records and sweeping assertions of arbitrariness, none of which withstand scrutiny. The entire premise of the petition collapses on a simple, incontrovertible fact: the petitioner did not meet the mandatory benchmark gradings during the relevant period and suffered punishments which were legitimately considered by the Screening Committee. These deficiencies were neither trivial nor curable. The Screening Committee's assessments of 2014 and 2015 were based on objective material and no amount of rhetoric can erase the petitioner's recorded shortcomings. Moreover, the same had not been denied by the petitioner.
24. The petitioner's reliance on the provisional approval of January 2016 notification is wholly misconceived. The approval was at best a tentative administrative step, subject to compliance with revised pay instructions. When the Competent Authority revisited the pay fixation, pursuant to the updated 2016 notifications, the petitioner's case did not sustain the statutory scrutiny. There is nothing arbitrary, incorrect and erroneous grant; what is arbitrary is the petitioner's expectation that the respondent must perpetuate a mistake merely to accommodate him.
25. The allegation of violation of natural justice is equally hollow. A uniform, rule-bound correction in pay fixation does not oblige the administration to hold a personal hearing for each affected employee. The petitioner seeks to stretch procedural fairness to absurd lengths to manufacture prejudice

when none exists. Judicial review is not a refuge for employees, unwilling to accept the legal consequences of their own service record. This Court finds no illegality, no irrationality and no procedural impropriety in the respondent action.

26. In view of the above discussions, the instant writ petition being WPA 24510 of 2016 is dismissed.

27. There is no order as to costs.

28. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)