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

\+ W.P.(C) 10850/2018

MS. VANDANA SHARMA .....Petitioner

Through: Mr. Vinay Garg & Mr. Vivek Bharti Sharma, Sr. Advocates with Mr. Karandeep Singh, Mr. Anuj Aggarwal, Ms. Kritika Matta, Ms. Shreya Gupta, Ms. Tanya Rose & Ms. Bhumika, Advocates.

versus

DAV PUBLIC SCHOOL AND ANR. .....Respondents

Through: Mr. Anurag Lakhotia & Mr. Udit Dwivedi, Advocates

Mrs. Avnish Ahlawat, SC, GNTCD with Mr. N. K. Singh, Ms. Aliza Alam & Mr. Mohnish Sehrawat, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% **23.01.2026**

1. The Petitioner was appointed on 31st July, 1990 with Respondent No. 1/School, which is an unaided private recognised school, governed by the provisions of the Delhi School Education Act, 1973.

2. The Petitioner's case is that although she was appointed on 31st July, 1990 with Respondent No. 1, she has been made to continuously discharge duties of an Art & Craft/Drawing Teacher, while being shown and paid as a Primary Teacher, resulting in denial of the corresponding pay scale and consequential service benefits. She further claims that the benefit of Assured Career Progression[1] was granted to her belatedly, and that she has not been

[1] "ACP"

extended the benefit of Modified Assured Career Progression,[2] despite being allegedly entitled thereto. In the above background, the Petitioner has made the following prayers:

> *"a. issue an appropriate writ, order or direction thereby declaring that the petitioner is an Art & Craft/Drawing Teacher and is entitled to the designation as well as pay scale of Art & Craft/Drawing Teacher i.e. Rs. 1400-2900 w.e.f. the date of her initial appointment i.e. 31.07.1990 instead of Rs. 1200-2040 which was being given to the petitioner;*
> *b. issue an appropriate writ, order or direction thereby directing the respondents to pay to the petitioner all the consequential benefits (monetary as well as non-monetary) on account of her revision of salary in terms of prayer (i) above along with interest to be calculated @ 18% per annum;*
> *c. issue an appropriate writ, order or direction thereby directing the respondent No.l to grant the benefits of 1st financial upgradation to the petitioner in terms of the ACP Scheme after the completion of 12 years' service i.e. w.e.f. 31.07.2002 with all consequential benefits (monetary as well as non-monetary) including arrears of salary, along with interest to be calculated @ 18% per annum;*
> *d. issue an appropriate writ, order or direction thereby directing the respondent No.l to grant the benefits of 2nd financial upgradation to the petitioner in terms of the MACP Scheme after completion of 20 years' service i.e. w.e.f. 31.07.2010 with all consequential benefits (monetary as well as non-monetary) including arrears of salary along with interest to be calculated @ 18% per annum;*
> *e. issue an appropriate writ, order or direction thereby directing the respondent No.2 to take appropriate action against the respondent No.l on account of the failure of the respondent No.l to grant the designation and scale of Art & Craft/Drawing Teacher to the petitioner, benefits of ACP as well as benefits of MACP to the petitioner;*
> *f. allow the present petition with costs in favour of the petitioner; and*
> *g- pass any such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

3. At the outset, Mr. Garg, Senior Counsel for the Petitioner, states that he is not pressing prayers (a), (b) and (e). His submissions are confined to grant of the first financial upgradation under the ACP Scheme after completion of 12 years of service w.e.f. 31st July, 2002 with consequential

[2] "MACP"

benefits, and the second financial upgradation under the MACP Scheme after completion of 20 years of service w.e.f. 31st July, 2010 with consequential benefits.

4. Mr. Garg submits that although the ACP benefit was extended in 2008, the same ought to have been applied retrospectively w.e.f. 2002 upon completion of 12 years of service. He submits that consequently, upon completion of 20 years of service, the Petitioner ought to have been extended the MACP benefit w.e.f. 31st July, 2010.

5. On the issue of delay in approaching the Court, Mr. Garg submits that in matters concerning financial upgradation, the benefits ought to be extended notwithstanding delay, and places reliance on the decision of this Court in ***D.A.V. College Managing Committee v. Seema Anil Kapoor***.[3]

6. The court has considered the aforenoted submissions. The applicability of the ACP/MACP schemes to the employees of Respondent No. 1 is not disputed. It is also not in dispute that Respondent No. 1 has already granted the benefit of ACP to the Petitioner in the year 2008. However, the Petitioner approached this Court only in 2018, i.e., after a delay of more than ten years. Further, the Petitioner has not placed on record any representation or correspondence to show that she had sought grant of ACP w.e.f. 31st July, 2002 at the relevant time.

7. Reliance placed on ***D.A.V. College Managing Committee v. Seema Anil Kapoor*** is misplaced, as the said decision pertained to statutory implementation of Pay Commission benefits under Section 10 of the DSEA. The present claim relates to retrospective monetary benefits under ACP despite ACP having been granted in 2008 and no grievance having been

raised for over a decade. Therefore, the Petitioner cannot claim retrospective monetary benefits by relying upon the aforesaid decision.

8. Accordingly, the claim for retrospective monetary benefits under the ACP Scheme is liable to be rejected on the ground of delay and laches, and accordingly, the Petitioner is not entitled to arrears under the ACP Scheme w.e.f. 31st July, 2002. However, the claim regarding MACP stands on a different footing, as noticed hereinafter.

9. As regards MACP, Respondent No. 1 states in its counter affidavit that the Petitioner's case was deferred for six months on account of alleged misbehaviour before the Screening Committee. However, Respondent No. 1 has not placed on record any contemporaneous document, such as a show cause notice, order, or minutes of the meeting, showing that the MACP was formally deferred on this ground. In the absence of such material, the said justification cannot be accepted to deny/postpone the MACP benefit.

10. Unlike the ACP claim, the issue of MACP remained pending, as Respondent No. 1 itself states that the Petitioner's case was only deferred and the grant of MACP was to be considered thereafter, which has not been done till date. In view of the above, this Court is of the opinion that there is no sustainable justification for withholding the benefit of the second financial upgradation under the MACP Scheme.

11. Accordingly, Respondent No. 1 is directed to grant the second financial upgradation under the MACP Scheme to the Petitioner on completion of 20 years of service, i.e., w.e.f. 31st July, 2010, with all consequential monetary benefits including arrears, along with interest at the rate of 9% per annum.

[3] 2023 SCC OnLine Del 2314

12. With the above directions, the petition is disposed of.

SANJEEV NARULA, J

JANUARY 23, 2026/*hc*