



2025:DHC:64-DB



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

+ W.P.(C) 104/2025

MUNICIPAL CORPORATION OF DELHIPetitioner

Through: Ms. Divya Swamy, Standing
Counsel for MCD with Mr. Yash Jain, Ms.
Akriti Singh, Mr. Yashovarman, Mr. Rishav
Ranjan and Ms. Nidhi Kumar, Advs.

versus

VEENA RANI

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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08.01.2025

C. HARI SHANKAR, J.

1. The respondent was appointed as Assistant Teacher under the Municipal Corporation of Delhi¹ *vide* order dated 27 December 1975. She joined the post on 1 January 1976 and retired from the same post after more than 38 years of service on 31 August 2014, on attaining the date of superannuation.

2. The dispute in the present case relates to the respondent's entitlement for the benefit of the Assured Career Progression Scheme², introduced by the 5th Central Pay Commission and the

¹ "MCD" hereinafter

² "ACP Scheme" hereinafter



Modified Assured Career Progression Scheme³ introduced by the 6th Central Pay Commission.

3. Under the ACP Scheme, an employee was entitled to two financial upgradations on completion of 12 and 24 years of service, if the employee was not regularly promoted in the interregnum. It is not in dispute that the next promotional post of the respondent was the post of Trained Graduate Teacher⁴. The availability of the benefit of the ACP Scheme was subject to the employee concerned having the requisite educational qualifications which, for the post of TGT, which was a graduation degree and degree/diploma in training/education or Senior Anglo Vernacular certificate⁵ with a minimum of five years regular service as Assistant Teacher.

4. It is also not in dispute that the respondent did obtain her Graduation in 1977 and that a SAV certificate was also issued to her on 17 April 1990.

5. Thus, the entitlement of the respondent for grant of the second ACP Scheme w.e.f. 1 January 2000, on completion of 24 years of regular service, cannot be gainsaid.

6. The respondent was, however, not granted the second ACP on the sole ground that the qualifications obtained by her were not entered in her service book. The Tribunal has held, in this regard, that the responsibility for entering the educational qualification of the

³ "MACP Scheme" hereinafter

⁴ "TGT", hereinafter



employee in the service book was of the establishment.

7. Ms. Divya Swamy, learned Counsel for the petitioner, submits that Rule 202 of the Rules for Sustenance of Service Books, required an employee to check every five years as to whether the service book was duly updated. She is, however, unable to dislodge the finding of the Tribunal that there is a concomitant responsibility of the establishment as well to update the service book of the employee. At the same time, she submits that, possibly, the service book of the respondent was not updated as the petitioner was not informed of the educational degrees obtained by her.

8. We are in agreement with the Tribunal that the fault, if any, in the failure to enter the qualifications obtained by the respondent in her service book was primarily that of the petitioner. The duty of care, cast on an employee to periodically ensure that the service book was updated cannot mitigate the responsibility of the establishment in this regard.

9. Insofar as the entitlement of the respondent for the benefit of the MACP Scheme was concerned, the ground urged by the petitioner before the Tribunal was that the respondent had been offered departmental promotion to post of Headmistress in 2005, which she declined. The respondent denied this assertion.

10. The Tribunal has noted that there was no material on record to indicate that the respondent at any point of time refused promotion to

⁵ "SAV certificate", hereinafter



the post of Headmistress when offered to her. Additionally, the Tribunal observed that, even if promotion was refused, it could not be a ground for rejecting the employee's claim to MACP and placed reliance, in this connection, on the judgment of the Madras Bench of the Tribunal in *R. Sengottaiyan v UOI*⁶.

11. Apropos this latter finding of the Tribunal, Ms. Divya Swamy's contention is that the MACP rules and guidelines specifically provide that, in the event of the employee refusing promotion to the next higher post when offered, the employee would not be entitled to MACP. However, she, too, is unable to produce any material to indicate that, in fact, the respondent was offered promotion to the post of Headmistress, and declined it.

12. Without, therefore, going into the applicability or otherwise of the judgment *R. Sengottaiyan*, the fact still remains that no material was produced either before the Tribunal or before this Court to indicate that the respondent ever refused promotion to the post of Headmistress in 2005 when offered to her.

13. Resultantly, neither of the grounds, which were pressed into service by the petitioner before the Tribunal and before this Court, to justify the denial, to the respondent, of second and third MACPs, can sustain on facts or in law.

14. We are also disturbed at the fact that the respondent retired after

⁶ Judgment dated 28 September 2018 in OA 310/00609/2014



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35 years of service on the very same post on which she had been appointed. The expectation of advancement of career prospects, from the stage an employee enters service, is not only legitimate but precious, and it is an unhappy state of affairs in which an employee has to retire from the very same post to which she, or he, was originally appointed, when promotional avenues are otherwise available.

15. We notice that the Tribunal has merely directed grant of MACP to the respondent, and has specifically stated that she would not be entitled to interest. The entitlement of the respondent to the grant of the second and third MACPs can hardly be disputed on merits.

16. In view of the aforesaid, we find no reason to interfere with the impugned judgment of the Tribunal, which is upheld in its entirety.

17. The petitioner is granted eight weeks' time to comply with the direction of the Tribunal.

18. The petition stands dismissed in *limine*.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 8, 2025

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