



2025:DHC:7563-DB



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

*Date of decision: 29.08.2025*

+ W.P.(C) 13186/2025  
DELHI TRANSPORT CORPORATION

.....Petitioner

Through: Mr.Rahul Kumar Verma, Adv.  
Mr.Satish Kumar, Dealing Astt.  
(DTC)

versus

ROSHAN LAL

.....Respondent

Through: Ms.Urvi Mohan and Mr.Naman  
Jain, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

**CM APPL. 54066/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

**W.P.(C) 13186/2025 & CM APPL. 54065/2025**

2. This petition has been filed, challenging the Order dated 18.03.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No.3207/2016, titled *Sh. Roshan Lal (Ex-Sr. Clerk) v. Delhi Transport Corporation Through its Chairman*, whereby the learned Tribunal disposed of the O.A. with the following directions:



*“7. Conclusion*

*7.1 In view of the above, the present OA is allowed in terms of the following:*

*(i) The pay re-fixation by the respondents vide decision dated 2.03.2015 and the recovery order dated 20.10.2015 are quashed.*

*(ii) The respondents are directed to restore the 1st ACP w.e.f 1.01.2004, IInd ACP with effect from 17.02.2005 and IIIrd MACP from 17.02.2011, as ordered by them earlier.*

*(iii) The respondents are directed to refund Rs 2,54,788/- which was deducted from the DCRG of the applicant, along with interest at the applicable simple GPF rates from the date of withholding such amount till the date of such refund.*

*(iv) All the above actions shall be completed within 8 weeks from receipt of certified copy of this order.”*

3. The brief facts giving rise to the present petition are that the respondent joined the petitioner as a Crew Conductor in the year 1978, on a daily-wage basis. He was subsequently confirmed in the service on 28.09.1979. Admittedly, the respondent was granted the benefit of the 1<sup>st</sup> and 2<sup>nd</sup> Assured Career Progression Scheme (in short, ‘ACP Scheme’) on 01.01.2004 and 17.02.2005, respectively. Thereafter, upon adoption of the Modified Assured Career Progression Scheme (in short, ‘MACP Scheme’) by the petitioner, the respondent was granted the benefit of the 3<sup>rd</sup> MACP Scheme on 17.02.2011. However, just prior to his superannuation, the petitioner re-examined the pay fixation of the respondent and, *vide* office Order dated 02.03.2015, re-fixed the dates of various financial upgradations of the respondent. Consequently, his 1<sup>st</sup> ACP was revised from 01.01.2004 to 01.04.2004, and the benefit of the 3<sup>rd</sup> MACP was denied. Further, a recovery of Rs. 2,54,788/- was sought from him, merely seven months



before his retirement. Aggrieved thereby, the respondent approached the learned Tribunal by way of the above O.A., which, as noted hereinabove, has been allowed with the directions impugned herein.

4. The learned counsel for the petitioner submits that the benefit of the 1<sup>st</sup> ACP was wrongly granted to the respondent with effect from 01.01.2004, as his ACR was to be written for the period 01.04.2003 to 31.03.2004. He submits that while granting the ACP benefit to the respondent, the department, by mistake, took into consideration the ACR for the period 01.01.2003 to 31.12.2003. This mistake was later realized, and accordingly, the pay of the respondent was re-fixed and recovery of the excess amount was sought.

5. We are not impressed with the submission of the learned counsel for the petitioner.

6. The learned Tribunal has considered the above plea in detail in its Impugned Order, and we would reproduce the relevant extract therefrom hereinbelow:

*“6.2 The DoP&T OM dated 8.05.2017, as cited by the learned counsel for the respondents to justify the action of the respondents on 2.03.2015 is not applicable to case at hand. This OM is post the decision by the respondents and hence cannot be applicable retrospectively to a decision taken on 2.03.2015 to justify that action by the respondents. Moreover, this OM talks about vacancy period, not writing ACRs or 15 months during a transition year.*

*6.3 The ACR of the applicant was written for the calendar year 2003, without giving effect of the circular dated 22.12.2003. It is the respondents who accepted the ACR of the applicant for the said period and based on his 3 years good performance granted him first ACP benefit with effect from 1.01.2004. The practice of ACR writing is that when*



*an employee completes 3 months continuous service under any organisation, he could be assessed for that period and his/her ACR could be written for that period. When the circular of December 2003 came, it was incumbent upon the respondents to clarify what could be the fate of the period 1.01.2003 to 31.03.2003. But the circular did not mention anything for that period. The next ACR could be rightly from 1.04.2003 to 31.03.2004. The period of three months from 1.01.2003 to 31.03.2003 could have been written separately. As the ACR of the applicant was written for the entire period of 1.01.2003 to 31.12.2003, it is logical that his ACR for 1.01.2003 to 31.03.2003 is same as assessed for 2003-04. Even in absence of ACR for a period, it is considered as satisfactory and counted towards the norm for promotion. Going by this analysis, the action by the respondents to postpone the first ACP by 3 months considering that the applicant had not earned three ACRs as ACR for 2003-04 was not due till 1.04.2004 is illegal and irregular. They should have taken the period from 1.01.2003 to 31.12.2003 as a unit of ACR and granted the ACP with effect from 1.01.2004. Actually, the respondents did accept this position in, the first instance, but changed the position 11 years after granting such benefit. This adjudicates the first issue.”*

7. The learned Tribunal also found that the pay was being re-fixed 11 years after the grant of the 1<sup>st</sup> ACP, and just before the superannuation of the respondent. Further, no show cause notice had been issued to the respondent prior to the re-fixation of his pay. Accordingly, applying the Judgment of the Supreme Court in *State of Punjab v. Rafiq Masih (White Washier)*, (2015) 4 SCC 334, the learned Tribunal has allowed the above O.A.

8. We find no infirmity in the Impugned Order. The petition along with the pending application is, accordingly, dismissed.



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9. The order of the learned Tribunal must be implemented by the petitioner within a period of four weeks.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**AUGUST 29, 2025/ns/DG**