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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 28.04.2026***

+ W.P.(C) 5522/2018 and CM APPL. 18458/2026
EX. HC GOVERDHAN SINGHPetitioner
Through: Mr. M. K. Gaur, Mr. Pawan
Kumar, Mr. Anup Kumar, Mr.
Gaurav Sarawat and Mr. U.
Srivastava, Adv.

versus

UNION OF INDIA AND ORS.Respondents
Through: Mr. Vivekanand Mishra, SPC.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T (O R A L)**ANIL KSHETARPAL, J.:****INTRODUCTION**

1. The present Writ Petition under Article 226 of the Constitution of India has been filed by the Petitioner, a retired member of the Border Security Force, laying challenge to the order passed by the Deputy Inspector General (Pers), Directorate General, Border Security Force, Block No.10, CGO Complex, Lodhi Road, New Delhi, whereby the Petitioner's claim for grant of first financial upgradation under the Assured Career Progression Scheme ('ACP') was rejected. By way of the present Writ Petition, the Petitioner seeks quashing of the aforesaid order and a consequential direction to the Respondents to



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grant him first ACP benefit with all attendant monetary and service advantages. The controversy, in substance, turns upon whether completion of qualifying service by itself entitled the Petitioner to ACP benefits, or whether the Respondents were justified in declining the same upon consideration of the Petitioner's service record, including the relevant Annual Confidential Reports (ACRs).

2. In order to comprehend the issue involved in the present case, some brief facts are required to be examined.

FACTS

3. The Petitioner was enrolled in the Border Security Force on 02.04.1975 as a Constable (GD) bearing Force No. 750011921. During the course of his service, he was progressively promoted to the rank of Head Constable on 10.11.1992. He served in 173 Bn BSF from 27.11.1991 until his voluntary retirement w.e.f. 30.06.2005, having completed 30 years, 2 months and 28 days of qualifying service.

4. The Government of India introduced the Assured Career Progression Scheme vide DoP&T O.M. dated 09.08.1999 on the recommendation of the 5th Central Pay Commission, with a view to mitigate stagnation among Central Government employees. The Scheme provided for two financial upgradations upon completion of 12 and 24 years of regular service respectively, subject to fulfilment of all prescribed promotional norms including the minimum ACR benchmark. The Scheme remained operative from 09.08.1999 to 31.08.2008. In the context of BSF, the promotional norms for



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advancement from Head Constable (GD) to the equivalent grade of Sub Inspector (GD) required, inter alia, a minimum overall ACR grading of "Good" as prescribed under the MHA guidelines dated 25.11.1988.

5. Subsequently, the HQ DG BSF (Pers Dte) circular dated 22.09.2014 relaxed the requirement of Pre-Promotion Courses, namely Map Reading Std-1st and PPC List 'D' - for the purposes of financial upgradation in the pay scale of Rs. 5500-9000/-, while expressly preserving all other promotional norms including ACR benchmark and conduct record.

6. During his service career, the Petitioner's ACR gradings for the period 1994-95 to 1998-99 - the years directly relevant to assessment of his 2nd ACP entitlement upon completion of 24 years of service on 02.04.1999, were consistently "Satisfactory," falling below the prescribed benchmark of "Good." His ACRs for the period 1998 to 2002 were not initiated, owing to a pending criminal proceeding under Section 302 IPC arising out of his deputation with NTPC, during which he was placed under suspension from 20.07.1999 to 12.03.2002.

7. He was eventually acquitted and the suspension period was regularized as "spent on duty" vide order dated 03.10.2004. He was additionally subjected to Summary Trial on two occasions during service - awarded "Reprimand" on 26.02.1999 under Section 40 of the BSF Act for conduct prejudicial to good order and discipline, and "Severe Reprimand" on 19.02.2001 under Section 19(a) of the BSF Act for absenting without leave.



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8. In compliance with the circular dated 22.09.2014, the Petitioner's case for grant of ACP benefits was examined by a duly constituted Departmental Screening Committee at SHQ BSF, Krishnanagar on 07.05.2015. The Committee, upon scrutiny of the service record, declined to recommend the Petitioner for financial upgradation on account of below-benchmark ACR grading and adverse punishment entries during the relevant period. The Board Proceedings are placed on record as Annexure R-4.

9. Subsequently, upon learning of a HQ DG BSF clarification dated 22.09.2016 regarding financial upgradation for retired Head Constables in the pay scale of Rs. 5500-9000/-, the Petitioner submitted a representation seeking extension of ACP benefits. The said representation was rejected vide the impugned order dated 14.07.2017 issued by Respondent No.4, on the grounds that the Petitioner had completed 24 years of service on 02.04.1999 but did not fulfil the requisite criteria under the governing instructions. A legal notice dated 20.08.2017 also failed to elicit relief. The Petitioner has challenged the impugned order and the inaction of the Respondents by way of the present writ petition under Articles 226/227 of the Constitution. A Counter Affidavit has been filed by the Respondents, and a Rejoinder has been filed by the Petitioner, placing on record a DoP&T OM dated 06.12.2016 clarifying the effect of warnings and reprimands on promotion.

ANALYSIS

10. The ACP Scheme is a beneficial measure conceived to address stagnation where regular promotion avenues are limited. It is,



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however, equally well settled that financial upgradation under such a scheme is not automatic upon completion of the prescribed years of service. The entitlement is conditional upon satisfaction of eligibility criteria prescribed under the governing policy, of which the ACR benchmark is a central and non-negotiable component. Completion of qualifying service is therefore a necessary but not sufficient condition. An employee seeking ACP must also demonstrate the minimum standard of fitness and suitability as reflected in his service record.

11. In the present case, the Petitioner's ACR gradings for the period 1994-95 to 1998-99, which form the zone of consideration for the 2nd ACP falling due on completion of 24 years of service, were uniformly "Satisfactory" - below the prescribed benchmark of "Good." The ACRs for the period 1998 to 2002 were not initiated on account of the pending criminal case and consequent suspension, a circumstance substantially attributable to the Petitioner's own conduct. A Screening Committee is entitled to take such absence of ACRs into account as part of its overall assessment. Viewed in totality, the Petitioner's service record does not satisfy the minimum eligibility threshold prescribed under the Scheme. This deficiency is objective, record-based, and unrebutted.

12. The Departmental Screening Committee constituted on 07.05.2015 was the competent, duly authorized body for examining entitlements under the ACP Scheme. It scrutinized the Petitioner's service dossier and returned a specific finding against him on two independent grounds - below-benchmark ACR grading and adverse punishment entries.



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13. It is well settled that this Court, in exercise of jurisdiction under Article 226 of the Constitution, does not sit in appeal over assessments of suitability made by departmental authorities. Interference is warranted only where the decision is shown to be perverse, mala fide, or contrary to the governing rules. No such infirmity has been demonstrated. No material has been placed before this Court to suggest that the ACR entries were fabricated, recorded by an incompetent authority, or influenced by bias. The DSC's decision is accordingly upheld.

14. The Petitioner has, in his Rejoinder, placed reliance on the DoP&T OM dated 06.12.2016 to contend that reprimands and warnings do not amount to penalties and cannot constitute a bar to promotion. This position is accepted as a correct statement of law. It does not, however, advance the Petitioner's case. The below-benchmark ACR grading constitutes an entirely independent and self-sufficient ground for denial of ACP benefits, wholly distinct from the punishment entries. Even if the reprimands are entirely excluded from consideration, the Petitioner's failure to meet the ACR benchmark alone is sufficient to disentitle him. The 2016 OM, moreover, operates prospectively and cannot retrospectively alter the criteria by which the DSC assessed the Petitioner's service record in 2015 with reference to a career ending in 2005.

15. The Petitioner has further alleged that similarly situated colleagues and juniors were extended ACP benefits while he was excluded. This allegation is unsubstantiated. No names, service numbers, comparative ACR gradings, or conduct records of any such



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person have been placed on record. A constitutional challenge founded on discrimination under Articles 14 and 16 must rest on specific and comparable material. Further, even if it were assumed that other persons were incorrectly extended benefits, that cannot create an enforceable right in the Petitioner. Parity in alleged illegality is not a permissible constitutional claim.

16. The Respondents have candidly admitted that the impugned order dated 14.07.2017 erroneously refers to the relevant circular as dated "22.09.2016" instead of the correct date of "22.09.2014." The correct circular is on record as Annexure R-3, and the reasoning of the order flows coherently from it. A typographical error that has no bearing on the merits of the decision does not vitiate the order. This contention is rejected. As regards the Petitioner's grievance concerning non-disposal of the legal notice dated 20.08.2017, since the substantive claim has been examined and determined on merits in these proceedings, no separate relief survives on this count.

CONCLUSION

17. In view of the foregoing, the present Writ Petition is dismissed. The Impugned Order dated 14.07.2017 is upheld and pending application, is disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 28, 2026

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