



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 11704/2025

1. Sport Authority Of India, Through Its Director General, Jawaharlal Nehru Stadium, New Delhi 11003.
2. The Director Pers And Coaching Sport Authority Of India, Jawaharlal Nehru Stadium, New Delhi 11003.

----Petitioners

Versus

R. S. Rathore S/o Late Shri G.s. Rathore, Resident Of 587-A, New Bjs Colony, Jodhpur, Presently Working On The Post Of Assistant Director, Sai, Stc, Jodhpur, Rajasthan.

----Respondent

For Petitioner(s) : Mr. H.R. Rawal
For Respondent(s) : Mr. S.K. Malik

**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE BIPIN GUPTA**

Order

06/11/2025

1. The present writ petition has been filed challenging the order dated 29.02.2024 passed by the Central Administrative Tribunal, Jodhpur Bench, Jodhpur (hereinafter referred to as 'the Tribunal') whereby the Original Application filed by the applicant – R.S. Rathore was allowed and a direction was issued to the effect that the applicant is entitled for the benefit of 2nd Financial Upgradation under Modified Assured Career Progression (hereinafter referred to as the 'MACP Scheme') and that the action of the respondent in not granting the said benefit of 2nd Financial Upgradation on account of non-availability of ACRs was found to be not sustainable in the eyes of law.



2. Brief facts of the case are that the applicant-respondent herein had filed an Original Application before the learned Tribunal contending therein that he was appointed on the post of 'Assistant' on 15.04.1987 in the pay scale of Rs.1400-2300. He was promoted to the post of 'Superintendent' w.e.f. September, 1992 in the pay scale of Rs.1640-2900. Thereafter, he was promoted to the post of 'Assistant Director' w.e.f. August, 2001 in the pay scale of Rs.8000-13500. It is pertinent to note that the MACP Scheme came into force w.e.f. 01.09.2008 and it provides for three financial upgradations at the interval of 10,20 and 30 years of continuous regular service.

3. In pursuance of the 6th Central Pay Commission (hereinafter referred to as 'CPS') which came into force w.e.f. 01.06.2006, the pay scale of 'Assistant' and 'Superintendent' were merged and a grade pay of Rs.4200 in PB-2 was granted. Since the pay scale of 'Assistant' and 'Superintendent' got merged, therefore the applicant got only one promotion i.e. promotion from the post of 'Superintendent' to 'Assistant Director' and after having completed 20 years of service, he was entitled to 2nd Financial Upgradation under MACP Scheme.

4. The non-applicant employer herein submitted that since the ACRs of the applicant were not available, the benefit under the MACP Scheme was not granted to him. It was further asserted by the non-applicant employer that since the applicant had already been granted two promotions, therefore, he was not entitled for 2nd Financial Upgradation.

5. The learned Tribunal considering the pleadings of the parties categorically recorded a finding that since the pay scales for the post of 'Assistant' and 'Superintendent' were merged under 6th





CPC, it was not counted as a promotion and the first promotion was granted to him was to the post of 'Assistant Director' on completion of 10 years of service. Thus, the Tribunal opined that since the applicant had been granted only one promotion, he was entitled for 2nd Financial Upgradation under the MACP Scheme on completion of the requisite period of 20 years of service.

6. The argument raised by the respondent-Authority with regard to the factum of non-availability of APARs and therefore non grant of MACP in Original Application was also rejected by the Tribunal, on the basis of the judgments passed by various High Courts and also the DoPT guidelines in regard of APARs, wherein the responsibility to keep and maintain the APARs was on the employer and not on the employee. Accordingly, the Original Application as filed by the applicant was rightly allowed.

7. Learned counsel for the petitioner-employer submits that the Tribunal has committed error while granting relief to the respondent-applicant in spite of the fact that the APARs of the respondent-applicant were not available with the Department. Moreover, the respondent-applicant was initially promoted from the post of 'Assistant' to 'Superintendent' and thereafter from 'Superintendent' to 'Assistant Director', therefore he is not entitled for 2nd Financial Upgradation under the MACP Scheme as he has already been granted two promotions.

8. Learned counsel for the respondent-applicant while supporting the order passed by the learned Tribunal, vehemently opposes the arguments advanced by the counsel for the petitioner-Authority.

9. Heard learned counsel for the parties.



10. On a query being raised by this Court to learned counsel for the petitioner-employer regarding the merger of the pay scales for the posts of 'Assistant' and 'Superintendent' under the 6th Central Pay Commission (CPC), the learned counsel for the petitioner was unable to dispute the said fact.

11. Accordingly, this Court finds that after the merger of the pay scales for the post of 'Assistant' and 'Superintendent', it cannot be said that the respondent-applicant had been granted promotion. The only promotion that the applicant received was from the post of 'Superintendent' to 'Assistant Director', and therefore, under the Modified Assured Career Progression (MACP) Scheme, he was entitled to the benefit of the 2nd Financial Upgradation on completion of 20 years of service.

12. With regard to another argument advanced by learned counsel for the petitioner-employer pertaining to the denial of benefit due to non-availability of ACRs, we are of the opinion that the learned counsel could not clarify the basis on which the submission was made that the responsibility to provide the APARs lies with the employee. The DoPT guidelines relied by the Tribunal casts duty on the employer to maintain the APARs of its employee.

13. It is a well-settled principle of law that the APARs are required to be maintained by the employer and not by the employee. The employer cannot deny the benefit of the 2nd Financial Upgradation under the MACP Scheme merely on the ground of non-availability of the APARs. Moreover, the employer cannot be permitted to take advantage of his own wrong so as to deprive an employee of the benefit to which he is entitled otherwise. This Court is of the view that the maintenance of APARs falls within the exclusive domain of the employer, and the





employee has no control over the same. It was the bounden duty of the employer to maintain the APARs, and if the same are not available, the fault cannot be attributed to the employee and the employer cannot deny the benefit of MACP on the ground of non-availability of APARs.

14. The responsibility of maintaining the APARs rests with the employer, and therefore, the action of the respondent-petitioner Authority herein in not granting the benefit of the 2nd Financial Upgradation under the MACP Scheme on the ground of non-availability of APARs was unsustainable in law. Thus, on the discussion made above, we are of the considered opinion that no error or illegality has been committed by the learned Tribunal in passing the impugned order dated 29.02.2024.

15. For the reasons as mentioned above, the present writ petition being devoid of force is hereby **dismissed**. No order as to costs.

16. Stay petition and pending applications, if any, stand **disposed of**.

(BIPIN GUPTA),J

(VINIT KUMAR MATHUR),J

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