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

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*Judgment reserved on: 03.02.2026*  
*Judgment pronounced on: 20.02.2026*

+ W.P.(C) 8623/2020 and CM APPL. 27786/2020

COMMISSIONER OF POLICE  
AND ORS

.....Appellants

Through: Ms. Pratima N Lakra, CGSC  
with Mr. Shailendra Kumar  
Mishra, Adv. with Mr. Ashok  
Kumar Sharma Delhi Police.

versus

HIRA LAL

.....Respondents

Through: Mr. Padma Kumar S., Mr.  
Gurpreet Singh, Advs.

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

## **J U D G M E N T**

### **AMIT MAHAJAN, J**

1. The present writ petition has been filed under Article 226 of the Constitution of India, assailing the order dated 11.02.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (*hereinafter* '**Tribunal**') in O.A. No. 2240/2014, whereby the learned Tribunal directed the Petitioners to re-determine, by a speaking order, the pay of the Respondent/Sh. Hira Lal as well as his entitlement to benefits under the Assured Career Progression ('**ACP**')/ Modified Assured Career Progression ('**MACP**') Schemes by adding



the service rendered by him in the Ministry of Information & Broadcasting from 16.06.1989 to 31.07.1991, if not already done.

3. The quintessential facets governing the present dispute are that the Respondent was appointed as Engineering Assistant ('EA') in the Ministry of Information & Broadcasting and served in the said post from 16.06.1989 till 31.07.1991 in the pay scale of Rs.1400-2600.

4. On 01.08.1991, after submitting a technical resignation, the Respondent joined the Delhi Police as ASI (Radio Technician) in the pay scale of Rs. 1600-2660.

5. Subsequently, the pay scale of the post of Engineering Assistant in the Ministry of Information & Broadcasting was revised retrospectively w.e.f. 01.01.1986, to Rs. 2000-3200. Upon representation by the Respondent to Ministry of Information & Broadcasting, his pay in the said post was re-fixed at Rs. 2,120/- as on 01.06.1991, i.e., prior to his joining the Delhi Police and he was also paid arrears on the revised fixation.

6. Owing to the aforesaid retrospective revision, the Respondent sought pay protection with respect to the post he was working at in the Delhi Police, and made representations with respect to the same. *Vide* Order dated 16.03.1999, the Petitioners only granted him two annual increments in his present pay grade of Rs.1600-2660/- by taking into account the service of two years rendered by him the Ministry of Information & Broadcasting.

7. Aggrieved, the Respondent filed an O.A. No. 2481/2000, which was allowed *vide* order dated 18.10.2001 and it was observed that the Petitioner/Authority will have to protect the pay of the Respondent



given to him in the revised and upgraded scale of pay of EA and the Petitioners should have proceeded to fix his pay in the pay grade of Rs. 1600-2600 taking into account his pay at Rs. 2,120/-. The relevant extract is reproduced as under: -

*4. In order to get over the problem arising in this case for want of necessary clarification as to the rule which should find application, we have had occasion to take a look at the character & service Roll of the applicant produced by the learned counsel for the respondents for our perusal. We have come across the following entry in the aforesaid Roll:*

*"Allowed to avail the benefit of past service rendered in Doordashan Centre from 16.6.1989 to 31.7.1991 as EA and the previous service Book accepted for all intents and purpose under 26(2) of CCS (Pension) Rules vide order No. 16203 - 09/CR/BCE/CH dated 1.6.99."*

*5. From the above it is seen that the benefit of Rule 26(2) of CCS (Pension) Rules, 1972 has been fully extended to the applicant. Thus the technical resignation given by him at the time of entry in Delhi Police will not entail forfeiture of his past service as EA in the Ministry of Information & Broadcasting. This way the service rendered by the applicant in the Ministry of Information & Broadcasting has been kept alive for extending certain benefits to the applicant and that is why, in our view, the respondents might have allowed two annual increments to the applicant in his current pay scale of Rs. 1600 - 2660/-. While the same might look alright on the face of it, the issue regarding fixation of pay of the applicant as on 1.8.1991 (in Delhi Police) in keeping with the revised pay scale given to him as EA still remains to be decided.*

*6. After a proper and careful consideration of the matter we have concluded that the respondent - authority will have to protect the pay of the applicant given to him in the revised scale of pay of EA. In the said revised scale, the applicant's pay was fixed at Rs. 2120/- as on 1.6.1991 and this takes into account two annual increments drawn by him in the Ministry of Information and Broadcasting. As on 1.8.1991 his*



*pay was the same, namely, Rs. 2120/-. To be just and fair to the applicant, the respondents should have proceeded to fix the applicant's pay in the pay grade of Rs. 1600 - 2660/-, which is the applicant's present pay grade, by taking into account the figure of Rs. 2120/-. While fixing the pay of the applicant as above, there will be no need to grant two annual increments which are already included in the aforesaid pay of Rs. 2120/- which became due to him as EA w.e.f. 1.6.1991. In the circumstances, we direct the respondents to fix the pay of the applicant as above as expeditiously as possible and in any event within a period of two months from the date of receipt of a copy of this order. They will grant all consequential benefits also to the applicant.”*

8. In lieu of the same, a fresh pay fixation order was issued on 20.12.2001. The same fixed the pay scale of the Respondent as Rs. 2,120/- under: -

*“Consequent upon the decision pronounced by the Hon'ble CAT in O.A. No. 2481/2000 dated 10.10.2001. The pay in r/o SI/RT Hira Lai No. 2690/D is hereby fixed w.e.f. 1.8.91 in **the pay scale of Rs. 1600-50-2300-55-2660. Rs. 2100+20 PP wef.....**”*

9. In the interim, the ACP Scheme was introduced, envisaging 2 Financial Upgradations on completion of 12 years and 24 years of regular service, and the Respondent was granted 1<sup>st</sup> upgradation after completion of 12 years of service w.e.f. 01.08.2003, i.e. counting his length of service from 01.08.1991 and excluding the previous years of service.

10. The ACP Scheme was superseded by the MACP Scheme which envisaged 3 Financial Upgradations on completion of 10, 20 and 30 years of service. The Respondent received 2<sup>nd</sup> Upgradation after completion of 20 years of service w.e.f. 01.08.2011 i.e. again counting



his length of service from 01.08.1991 and excluding the previous years of service.

11. It is alleged that despite several representations to the Department, no response was received and thus, the Respondent was constrained to challenge the said action before the learned Tribunal. *Vide* the impugned order dated 11.02.2020, the learned Tribunal allowed the O.A. in the following terms: -

*“ 4. The grievance of the applicant is about the non-inclusion of his service from 16.06.1989 to 31.07.1991, rendered in Doordarshan, with his service in Delhi Police. That in turn, gave rise to the delay, in extending the benefit of ACP/MACP and fixation of pay scale. During the course of the arguments, learned counsel for respondents has placed before us a copy of an order dated 01.06.1999, through which the service rendered by the applicant in Doordarshan was counted in Delhi Police also. The order reads as under: -*

*“ ORDER  
S.I./R.T. Hira Lai, No.2690/D (PIS No.21910008) is hereby allowed to avail the benefit of his past service rendered by him in DoorDarshan Maintenance Centre from 16.6.89 to 31.7.91 as Engineering Assistant (EA) and his previous service Book of Door Darshan is accepted for all intents and purposes under Rule 26(2) of CCS, Pension Rule\_1972. As regards his pay, two advance increments has already been granted to him in lieu of the completed year of his previous service of Door Darshan vide this office order No.2919-27/CR/DCP/Comn., dated 16.3.99 in pursuance of GOI MHA's letter No.14011-66/98, UTP, dated 2.1.99.”*



5. *With this, the grievance mentioned in the first part of prayer in the OA stands redressed. If the respondents have not taken into account the service for the two years referred to above, even now, they can undertake an exercise in that behalf.*

6. *We, therefore, dispose of the OA, directing that the respondents shall re-determine, through a speaking order, the pay of the applicant, as well as, the benefits under ACP/MACP, by adding the service from 16.06.1989 to 31.07.1991, if not already done. This exercise shall be completed within a period of two months, from the date of receipt of a certified copy of this order.”*

12. In lieu thereof, the Deputy Commissioner of Police has passed another Order dated 09.04.2020, holding him eligible for 3<sup>rd</sup> upgradation as per MACP only on 01.08.2021 by counting 30 years from 01.08.1991 i.e. the dated he joined Delhi Police.

13. Hence, a Contempt Petition bearing C.P. No. 190 of 2020 was filed by the Respondent alleging non-compliance of the directions passed in the impugned order.

14. Learned counsel for the Petitioners submits that the learned Tribunal erred in directing reconsideration of ACP/MACP benefits, as the Respondent joined the Delhi Police in a higher pay scale of Rs. 1600-2660 than his previous post which had the pay scale of Rs. 1400-2600, and therefore, the past service rendered cannot be counted for grant of ACP/MACP benefits.

15. It is contended that the learned Tribunal failed to appreciate the law laid down in ***P.S. Rajput v. Union of India and Ors. 2019 SCC OnLine Del 7081*** wherein it has been held that an employee who



enters service in a higher pay grade by direct recruitment is not entitled to MACP benefits by counting service rendered in the lower grade.

13. Hence, it is prayed that the impugned order is liable to be set-aside.

15. *Per contra*, learned counsel for the Respondent submits that the reliance placed on **P.S. Rajput** (supra) is wholly misconceived as the Respondent's case is not one of movement from a lower to a higher pay scale, but one where the pay scale of the earlier post was revised and upgraded retrospectively to Rs. 2000-2300 by virtue Office Order dated 14.11.1996, resulting in his last drawn pay being higher than the entry pay in Delhi Police, thereby mandating pay protection and thus, his past service ought to have been counted for grant of ACP/MACP benefits.

16. It is further submitted that the issue of pay protection and continuity of service stands conclusively settled by the order dated 18.10.2001, which has attained finality, and the Pay drawn is same in both the posts as Rs. 2,120/-.

17. It is further submitted that in blatant disregard to the directions passed by the learned Tribunal, the Petitioner Authority has passed the Order dated 09.04.2020, without including his past years of service rendered in Doordarshan.

18. Hence, it is prayed that the present petition is devoid of any merit and be dismissed.

18. Submissions heard and the record along with the written submissions as well as the judgments have been perused.



### Analysis

19. At the outset, it must be noted that the Respondent's entitlement to protection of past service and pay fixation stood conclusively determined by the Tribunal in its order dated 18.10.2001 passed in O.A. No. 2481/2000. The Tribunal in 2001 specifically rejected the Petitioners' approach of granting merely two advance increments and held that the Respondent's pay, as fixed in the revised scale of Engineering Assistant pursuant to retrospective revision, was required to be protected upon his appointment in Delhi Police.

20. Subsequently, even the order dated 20.12.2001 fixed the pay of the Respondent in the post ASI was re-fixed at Rs. 2,120/- w.e.f. 1.08.1991 and his previous pay was already revised as Rs. 2,120/-.

21. Hence, the only limited issue before this Court is whether the learned Tribunal had erred in directing the Petitioners to consider the past period of service of the Respondent in Doordarshan to consider his entitlement for ACP/MACP benefits.

22. To address the same, it would be imperative to understand para 9 of Annexure 1 of the MACPS which reads as under: -

*“9. ‘Regular service’ for the purpose of the MACPS shall commence from the date of joining of a post in direct entry grade on a regular basis either on direct recruitment basis or on absorption/re-employment basis. Service rendered on ad hoc/contract basis before regular appointment on pre-appointment training shall not be taken into reckoning. However, past continuous regular service in another Government Department in a post carrying same Grade Pay prior to regular appointment in a new Department, without a break, shall also be counted towards qualifying regular service for the purpose of MACPS only (and not for the regular promotions). However,*



*benefits under the MACPS in such cases shall not be considered till the satisfactory completion of the probation period in the new post.”*

23. Further, FAQ – Point 13 issued by the DoPT in regard to the implementation of the MACP and consideration of past service for grant of MACP benefits reads as under: -

<b>S. No.</b>	<b>Point of Doubt</b>	<b>Clarification</b>
<b>13.</b>	<b><i>Whether the past continuous regular service in another Govt. Deptt. in a post carrying same grade pay prior to regular appointment in a new Deptt. without a break shall be counted towards qualifying regular service for the purpose of MACPS.</i></b>	<b><i>Yes (Para 9 of MACPS)</i></b>

24. It becomes luminously clear that the past service rendered can be counted for grant of MACP benefits if the conditions therein stand satisfied.

25. Admittedly in the present case, the first condition under Paragraph 9, *namely continuity of service*, stands fulfilled. It is an admitted position that the respondent tendered a *technical resignation* while moving from the Ministry of Information and Broadcasting to the Delhi Police and, by virtue of Rule 26(2) of the CCS (Pension) Rules, 1972, his past service was not forfeited.

26. As regards the second condition, the same also stands fulfilled. It has been contented that the Respondent had joined Delhi Police services in a higher pay grade and thus his past service cannot be counted. The same, in the present case, seems untenable as admittedly



the pay and grade of the Respondent were retrospectively revised and duly protected by the department i.e. his previous grade pay as EA was also Rs. 2,120/- and subsequently, in the present services as ASI his pay was also re-fixed as Rs. 2,120/-. Once such retrospective revision and pay protection has been granted, the movement cannot be treated as one from a lower grade to a higher grade, in substance. The assessment of eligibility under MACP cannot be divorced from the actual pay structure as finally settled by the employer itself. Further, considering the pay before revision only to state that his he has moved from a lower grade to a higher grade would amount to declining the Respondent the benefit of such retrospective revision due to which his Grade Pay remained same as Rs. 2,120/-.

27. Even otherwise, as noted by the learned Tribunal, once the Respondent's past service has been protected under Rule 26(2) of the CCS (Pension) Rules "*for all intents and purposes*", the same can be reckoned for the purposes of financial progression under the ACP/MACP Scheme.

28. The reliance on the case of **P.S. Rajput** (supra) is distinguishable as the ratio of the said judgment relates to a case where the Petitioner was appointed as a Constable on 02.01.1985 in pay scale of 210-4-250-EB-5-270 and was subsequently appointed as a Head Constable on 02.09.1997 through the process of direct recruitment and thus, came into a higher scale of 975-25-1150-EB-1660. Hence, his past services rendered in the post of Constable were not counted since he had moved from a lower pay scale to a higher pay scale.



29. The present case stands on an entirely different footing as in the same, due to retrospective revision, the Petitioner's grade pay of Rs. 2120/- remained the same and has been protected.

30. A similar issue arose for consideration before a coordinate bench of this Court in the case of **Anil Kumar v. Jawaharlal Nehru University, Neutral Citation Number: 2023:DHC:1994**, wherein the Petitioner had urged that since his core pay scale in the previous post of Junior Assistant-cum-Typist was restored/revised to the *Grade Pay of Rs.2800/-* which was the same grade pay of his new post of Semi Professional Assistant, his past service ought to be counted for the purposes of financial upgradation under the MACP. While allowing the claim of the Petitioner therein, the Coordinate Bench observed as under: -

*“25. Both parties have diametrically opposite stand on this issue. While the Petitioner submits that in both the posts, he is in the Grade Pay of Rs.2800/-, stand of the Respondent is that since the post of Junior Assistant-cum-Typist is in the Grade Pay of Rs.1900/- and the present post of the Petitioner i.e. Semi Professional Assistant has a Grade Pay of Rs.2800/-, benefit of counting past service cannot be granted to the Petitioner. Having perused the documents on record as well as the two earlier judgments, as aforementioned, this Court finds that the stand of the Petitioner is correct.”*

*26. Admittedly, the pay of the Petitioner was re-fixed under the 6<sup>th</sup> CPC in Pay Band Rs.5200-20200 with Grade Pay of Rs.2800/- in the post of Junior Assistant-cum-Typist by an order issued with the approval of 'Competent Authority'. With the coming of the 7th CPC, Petitioner has been placed in Level-5 in the Pay Matrix which corresponds to pre-revised pay scale of Rs.1350-2200 under the 4<sup>th</sup> Pay Commission and not Rs.950-1500. Neither the Court nor the Respondent had imposed any rider or caveat while granting the benefit as far as the Petitioner is concerned, save and except, that the pay scale of Rs.950-1500 would continue to be the scale of*



*new entrants/recruits. If the Respondent is permitted to go by the Grade Pay of the 'post' i.e Rs.1900/- at this stage for the purpose of counting his past service, it would amount to nullifying the relief granted to him by the Court and the pay fixation order, passed by the Respondent, pursuant thereto as also UGC's decision that for employees who were granted the higher core scale of Rs.1350-2200, no reduction will be made and their scale will be protected by treating the scale as personal to the employee. If the Respondent felt that the Petitioner was not entitled to the Grade Pay of Rs.2800/-, it was open to them to contest the case when he had filed the writ petition. On the contrary, Respondent conceded before the Court that the Petitioner's case was covered by the earlier judgment in Bam Dev Chhetri (supra) and went on to implement the judgment and fix his pay in the Grade Pay of Rs.2800/-. Therefore, insofar as the Petitioner is concerned, Respondent cannot at this stage approbate and reprobate and treat his Grade Pay in the post of Junior Assistant-cum-Typist as Rs.1900/- albeit this is the Grade Pay attached to the post in question. **Since the Petitioner has to be treated as drawing Grade Pay of Rs.2800/- in the post of Junior Assistant-cum-Typist which is the same as the Grade Pay of his new post Semi Professional Assistant, he is entitled to the benefit of counting the past service.***

*27. Under the MACP Scheme, 2nd financial upgradation is granted on completion of 20 years of regular service and thus for computation of the said eligibility period, **this Court holds that the service of the Petitioner from 01.01.1996 to 03.02.2013 shall be counted.** Accordingly, the writ petition is allowed. Petitioner will be entitled to be considered for the grant of 2nd financial upgradation under the MACP Scheme on completion of 20 years commencing from 01.01.1996, in accordance with the conditions and parameters laid down in the Scheme. Needless to state that if the Petitioner is granted the 2nd financial upgradation, he shall be entitled to all consequential benefits including arrears with interest @ 6% per annum calculated till the date of actual payment."*

26. Hence, once past services of similarly situated employees have been considered for financial upgradation, the same benefit ought to be extended to the Respondent as well.



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27. In view of the aforesaid discussion, this Court finds no infirmity in the impugned order dated 11.02.2020 and the past service of the Respondent rendered in Doordarshan from 16.06.1989 to 31.07.1991 has to be considered by the Petitioner for determining benefits under the ACP/MACP Scheme.

28. Thus, the Petitioner is directed to pass consequential order within 3 months from the date. The Respondent shall also be entitled to interest at GPF Rates on the arrears from the date it was due i.e. 11.02.2020 (date of the impugned order) till the date of payment.

29. The writ petition is dismissed, along with all pending application(s), if any.

**AMIT MAHAJAN, J.**

**ANIL KSHETARPAL, J.**

**FEBRUARY 20, 2026**

*jnv*