

\$~23

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

%

Date of Decision : January 27, 2015

+

**W.P.(C) 727/2015**

DASRATH & ORS

..... Petitioners

Represented by: Mr.Subhashish Mohanty, Advocate

versus

UNION OF INDIA & ANR

..... Respondents

Represented by: Mr.Rahul Sharma, Advocate with  
Ms.Saahila Lamba, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**PRADEEP NANDRAJOG, J. (Oral)**

CM No.1297/2015

Allowed subject to just exceptions.

W.P.(C) No.727/2015

1. The issue concerns implementation, after interpretation, of the CCS (Revised Pay) Rules, 2008, which came into effect retrospectively from January 01, 2006.
2. The rules were formulated after the Government of NCT accepted, with modification, the recommendations of the Sixth Central Pay Commission.
3. As is well-known by now, the Sixth Central Pay Commission made a radical change vis-a-vis the recommendations of the earlier pay commissions wherein, in the past, replacement pay scales were recommended to the existing pay scales.

4. The Sixth Central Pay Commission recommended Four Pay Bands with different Grade Pay within the Bands, which recommendations were accepted by the Government requiring placement of the persons, with reference to the earlier pay scales, in the applicable Pay Band and corresponding Grade Pay.

5. Learned counsel for the respondents who appear on advance copy of the writ petition being served, concede as aforesaid and pray that the writ petition may be heard for disposal today itself without awaiting a formal response, for the reason a legal issue arises for consideration, with only one fact to be factored in, which fact is not in dispute.

6. Enrolled as followers in CISF in different trades such as Carpenter, Plumber, Painter, Electrician, Mason etc., after a decision was taken to fully combatize the force, the petitioners were re-classified as Constable/Trademan. Depending upon the trade, they were given the relevant designation. To wit: a plumber was designated as a Constable(Plumber), a Carpenter was designated as a Constable(Carpenter).

7. Undisputedly the petitioners were entitled to the Pay Band in the lowest i.e., PB-1 which is the band ₹5200-20200 with Grade Pay ₹2000/-. Neither party is variance on said part. The dispute is to the basic pay required to be fixed.

8. The applicable Rule is Rule 7 of the CCS (Revised Pay) Rules, 2008 which reads as under:-

*“7. Fixation of initial pay in the revised pay structure:*

*(1) The initial pay of a Government servant who elects, or is deemed to have elected under sub-rule (3) of rule 6 to be governed by the revised pay structure on and from the 1<sup>st</sup> day of January, 2006, shall, unless in any case the President by special order otherwise directs, be fixed separately in respect of*

*his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended, and in respect of his pay in the officiating post held by him, in the following manner, namely:-*

*(A) in the case of all employees:-*

*(i) the pay in the pay band/pay scale will be determined by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.*

*(ii) if the minimum of the revised pay band/pay scale is more than the amount arrived at as per (i) above, the pay shall be fixed at the minimum of the revised pay band/pay scale.”*

9. Rule 4 of the CCS (Revised Pay) Rules, 2008 reads as under:-

*4. Scale of pay of posts - The pay band and grade pay or the pay scale, as applicable, of every post/grade specified in column 2 of the First Schedule shall be as specified against it in column 5 & 6 thereof.”*

10. Concededly under Section (II) to the First Schedule of the Rules, the entry pay, in the revised pay structure, for direct recruits appointed on or after January 01, 2006 has been indicated, and concerning PB-1 in the Band ₹5200-20200, the following has been indicated:-

*“PB-1 (Rs.5200-20200)*

| <i>Grade Pay</i> | <i>Pay in the Pay Band</i> | <i>Total</i>  |
|------------------|----------------------------|---------------|
| <i>1,800</i>     | <i>5,200</i>               | <i>7,000</i>  |
| <i>1,900</i>     | <i>5,830</i>               | <i>7,730</i>  |
| <i>2,000</i>     | <i>6,460</i>               | <i>8,460</i>  |
| <i>2,400</i>     | <i>7,510</i>               | <i>9,910</i>  |
| <i>2,800</i>     | <i>8,560</i>               | <i>11,360</i> |

11. The respondents concede to the above that those who are directly recruited or would be directly recruited after January 01, 2006 to a post in PB-1 having Grade Pay ₹2000/-, the basic pay in the Pay Band has to be fixed at ₹6460/-, and giving benefit of ₹2000/- Grade Pay, incumbent of the post on direct entry would draw a salary of ₹8460/- per month as the basic salary.

12. The benefit is being denied to the petitioners on the ground that no direct recruit was recruited to the post in question after January 01, 2006. Accordingly, according to the respondents the pay of the petitioners has to be fixed as per Rule 7 which requires the existing basic pay to be multiplied by a factor of 1.86 and rounding of the resultant figure to the next multiple of ten, and if the same is less than the minimum pay in the revised pay band, to be fixed at the minimum.

13. Accordingly, the respondents have fixed the pay of the petitioners on January 01, 2006 at ₹6060 + Grade Pay of ₹2000/-.

14. The issue would be: If direct recruits to the post would be entitled to the minimum of the pay in the sum of ₹6460/- and with the Grade Pay of ₹2000/- i.e. ₹8460/-, would the petitioners who were Constable/Trademan before the Rules came into vogue be liable to have the pay fixed by multiplying their existing basic pay with a factor of 1.86 and rounding off the resultant figure to the next multiple of 10 or would it be the minimum to which the direct recruit appointed on or after January 01, 2006.

15. Concededly, with respect to Head Constable/Trademan the department has taken a view that they would be entitled to the minimum basic pay to which a directly recruited Head Constable would be entitled to, and thus we see no reason why the same benefit be not granted to the petitioner.

16. We note that the writ petition filed by the Head Constables numbered as W.P.(C) 7673/2012 Kichilu R Money & Ors. vs. UOI & Ors, was disposed of on September 18, 2014 noting the stand of the Government counsel that their pay would be fixed at ₹7510 + Grade Pay of ₹2400/- in view of the fact that Section II to the First Schedule to the Rules, for the post which have to be put in the Grade Pay ₹2400/-, minimum basic pay at the entrant level is ₹7510/-.

17. The writ petition is accordingly allowed.

18. Impugned order dated September 12, 2014 is quashed. A mandamus is issued to the respondents to fix basic pay of the petitioners on January 01, 2006 in PB-1 at ₹6460/- with Grade Pay of ₹2000/-.

19. No costs.

**(PRADEEP NANDRAJOG)**  
**JUDGE**

**(PRATIBHA RANI)**  
**JUDGE**

**JANUARY 27, 2015**

rb