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

+ W.P.(C) 1650/2015

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Decided on : 07.10.2015

BHOOP SINGH

..... Petitioner

Through: Mr.A.K.Trivedi and Mr.Ashok K.Vij,
Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Vikram Jetly, CGSC with
Mr.Ankur Chhibber, Advocate &
Mr.Vijay Raut.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

1. The petitioner's grievance is that he has been fixed in the wrong stage of the pension resulting in loss of pension and the other benefits.
2. The petitioner initially retired as on 06.09.1991 as an Inspector in the pay scale of ₹1600-2900. With effect from 01.01.1996, the replacement scale was ₹5500-9000. This was subsequently revised on 10.10.1997 to ₹6500-10500. With the VIth Pay Commission's recommendations, the pay scale in respect of the equivalent applicable grade (from which the petitioner had retired) was fixed at ₹9300-34800 with ₹4200/- grade pay. The petitioner had approached this court by way of the present writ petition complaining that the pension fixed consequent to the VIth Pay Commission was on a wrong basis and instead of ₹7215/- the corresponding pension of

₹8145/- with reference to the original pay scale of ₹6500-10500 (i.e. pre-revised pay scale) was applicable. This court had on 23.02.2015, for the reasons recorded, rejected the petition. The petitioner felt aggrieved and claimed that the dismissal was contrary to the record and filed R.P.226/2015. That review petition was allowed on 11.09.2015 and the writ petition was restored for hearing on merits. The order of the court is as follows:

- “1. Having perused Annexure P-1 and the Fitment Table we find that those who were in the pay scale ₹5000-9000 as also those who were in the pay scale ₹6500-10500 have been placed in PB-2 : ₹9300-34800 with Grade Pay ₹4200, but for purposes of pension there would be a difference. The minimum pension for those who came to PB-2 with reference to pay scale ₹6500-10500 is ₹8145/- and those who came to PB-2 with reference to pay scale ₹5500-9000 their minimum pension is ₹7215/-.*
- 2. This aspect of the matter has clearly been overlooked by this Bench when order dated February 23, 2015 was passed. Thus R.P.No.226/2015 is allowed. Order dated February 23, 2015 is recalled.*
- 3. Writ petition is restored for hearing on merits.*
- 4. The writ petition shall be listed before the Roster Bench for directions on October 07, 2015.”*

3. We have considered the submissions of the parties. It is not in dispute that the petitioner retired on 06.07.1991 and was at that time in the pay scale of ₹1600-2900. He was consequently permitted retiring pension at ₹968/- per month. After implementation of the 5th Pay Commission the pay scale corresponding ₹1600-2900 was ₹5500-9000. His pension was therefore revised to ₹2936/- on 01.01.1996. Apparently, in the meanwhile the pay scale – in respect of the grade from which the petitioner retired – underwent

a change inasmuch as it was revised to ₹6500-10500 sometime in 1997. When the VIth Pay Commission recommendations were made, the petitioner's pension was re-fixed on the assumption that his last drawn salary was in the grade equivalent to ₹5500-9000. This was clearly erroneous because he was actually drawing salary as per a scale equivalent to ₹6500-10500 by virtue of the subsequent order made in 1997. It is therefore evident that the petitioner is entitled to higher pension at ₹8145/- according to the Fitment Table placed on record.

4. In view of the above discussion, the writ petition has to succeed. The respondents are directed to consider the record and make consequential alterations within eight weeks from today and ensure that the differential pension/arrears are disbursed to the petitioner within 12 weeks.

5. The writ petition is allowed in the above terms.

S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)

OCTOBER 07, 2015

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