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

+ **W.P.(C) 2010/2014 & C.M.Nos.4194/2014 & 1060/2015**

DHIRAJ KUMAR & ORS.

..... Petitioners

Through: Mr.K.Sunil, Mr.Aviral Mittal and
Mr.Navdeep Jain, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Amit Mahajan, CGSC for UOI
with Mr.Nitya Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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07.09.2015

1. The petitioner claims a direction that the respondents should grant him promotion to the post of Deputy Inspector General of the Central Reserve Police Force from the date his juniors have been promoted. The petitioner was apparently facing disciplinary proceedings which have culminated in an order dated 17.04.2013. The disciplinary proceedings which have culminated in the said order were quashed by the decision of the Tripura High Court dated 24.09.2014. Having regard to these facts, the respondents granted promotion with effect from the date the petitioner's junior were given i.e. 18.05.2013 and have directed notional benefits such as pay fixation, consequential seniority etc. but have denied arrears of salary etc.

2. The petitioner contends that complete denial of salary is unwarranted since the disciplinary proceedings had ended on 17.04.2013. The learned counsel for the respondent relies upon the

decision in *Virender Kumar vs. Avinash Chandra Chadha & Others* (1990) 3 SCC 472 and submits that since the order of promotion has been made recently, no question of arrears would arise.

3. We are of the opinion that the judgment in *Virender Kumar's* case (supra) is inapt. The court's observation that arrears of salary cannot be granted as that would confer undue benefit since the officer or employee does not discharge the duties relatable to the higher post was rendered in the context of a seniority dispute. In this case there is no such dispute at all. The disciplinary proceedings had culminated even before the petitioner's case for promotion along with his juniors was to be taken up. Even there were lingering doubts, that too was settled with the quashing of the disciplinary proceedings by the Tripura High Court, though subsequently. We are of the opinion that the denial of arrears of salary is unwarranted.

4. Respondents are directed to re-fix the pay allowances by an appropriate order and ensure that the differential pay is released to the petitioner within eight weeks from today.

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

6. The pending applications also stand disposed of.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 07, 2015

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