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

+ **W.P.(C) 2945/2014**

DAYA RAM

..... Petitioner

Through: **Mr.S.Sashi Bhusan, Advocate**

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: **Mr.Ruchir Mishra and Mr.Sanjiv**

K.Saxena, Advocates

Mr.S.S.Sejwal, Law Officer, CRPF

Mr.B.K.Raut, Pairvi Officer, CRPF

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **31.08.2015**

1. Petitioner's grievance is that his option under Fundamental Rule 22 (I) (a) (1) exercised in favour of immediate increment from the date of his promotion to the grade of Head Constable in the Central Reserve Police Force (CRPF) was rejected without any information. He submits that therefore that the consequential pay fixation based upon the anniversary date of his increment has led to adverse financial consequences.

2. The petitioner, the CRPF employee, was on deputation to the National Security Guard. At that time he was promoted as Head Constable in his substantive grade. He seems to have opted for immediate increment in term of Fundamental Rule 22 (I) (a) (1).

However, this option apparently was not taken into account by the CRPF which fixed his increment in accordance with F.R. 22-C as existed then. Learned counsel submits that this fixation of pay of the consequential promotion persisted in the pay fixation and fitment, carried out consequent upon recommendations of the Vth and VIth Pay Commissions respectively. It was argued that when the petitioner sought voluntary retirement and elicited reasons for rejection he was made aware for the first time that option exercised on 16.08.1999, was rejected as time barred. These facts emerged on reading of the counter affidavit which also includes the copy of the said order dated 01.10.2010.

3. This Court has considered the submission. It is quite evident that the petitioner had in fact exercised his option and furnished the same to the NSG upon being promoted (termed as promotion since he was on deputation) by the CRPF. Such being the case, the inter-departmental lapse or omission which led to the option form not being placed on the file, was a circumstance entirely beyond his control. Yet that operated against him illegitimately. He urges that the resultant deprivation as the consequence of his junior drawing higher pay on account of pay fixation options exercised by them under F.R. 22 (I) (a) (1) which were accepted at the relevant time. Given these circumstances and also the fact that in matters of pay fixation and grant of arrears since the cause of action is deemed to have been a continuing one and further the petitioner opted for voluntary retirement and superannuated from the CRPF at which time his option was fixed on the basis of the flawed fixation under F.R.22-C, the

Court is of the opinion that the respondent CRPF should take on record his option and give effect to it and grant him such arrears constituting the difference between increment dates at all relevant stages including the pay fixation after the pay commissions' recommendation. The petitioner shall also be entitled to the increased terminal benefits such as differential gratuity and differential pension etc. Appropriate pay/pension fixation orders in this regard shall be issued within 12 weeks and arrears shall be disbursed within sixteen weeks.

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

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 31, 2015

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