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

+ W.P.(C) 4523/2013

RAM KUMAR PHOGAT Petitioner

Through: Mr. K. Venkatraman, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. R. Mishra, Advocate along with
Mr. Sanjiv K. Saxena and Mr. Mukesh
Tiwari, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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09.09.2016

Rev. Pet. 566/2015 & CM No. 28347/2015 in W.P.(C) 4523/2013

Issue notice. Mr. R. Mishra, Advocate appearing on behalf of the respondents accepts notice.

This review petition seeks recall of the judgment of this court dated 29.07.2015 dismissing W.P. (C) No. 4523/2013.

The facts in brief are that the respondent/writ petitioner complained that his pension fixation pursuant to the revision of pay scale, affected after 01.01.2006 was erroneous. He claimed that as against the basic pension fixation of Rs. 6,928 by the respondent, he was entitled to Rs. 7,870 w.e.f. 01.01.2006. The writ petitioner had

relied upon judgment in *Union of India vs. Central Government SAG and Others* and connected cases which had upheld the directions of the CAT. The court had noticed the operative portions of the directions in that decision.

The Union, in this review argues that given the memo dated 01.09.2008, especially para 4.1 and para 4.2 thereof read with the fitment chart, there was no error in the fitment order, fixing the revised pension of the writ petitioner at Rs. 6928/-.

The court has considered the submission of the parties and is of the opinion that the order allowing the writ petitions is clearly contrary to the record and based upon an erroneous appreciation of the circumstances. The court's order is premised upon the petitioner's argument that pension fixation had to be in accordance with a certain formula i.e. taking note of the appropriate stage of pay which was applicable at the time of retirement; adding the grade pay in the appropriate revised pay scale and a revised pension, which was Rs. 15740/-. The fitment chart – the validity whereof has been upheld in the “Central Government SAG case (supra), together with para 4.1 /4.2 on the other hand bespeak another story. The review petitioner / Union contends that the petitioner was drawing the basic pension at Rs. 3,065/- (which he never disputed) as on 01.01.2006 and consequently he was fixed at the revised pension of Rs. 6,928/-. This argument is well founded because given the imperative of para 4.1 and 4.2 in OM 19/2008 (the validity of which was upheld by the court, the petitioner's grievance that the pension fixation was erroneous, cannot be countenanced.

In the light of the above reasoning, the review petitions succeeds, partly.

It is held that the petitioner's pension should be fixed at Rs. 7,215/-. The order of 29.07.2015 is modified to the above extent.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 09, 2016

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