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

% **Decided on : 11.08.2015**

+ W.P.(C) 6619/2011
RAJESH KUMAR

..... Petitioner

Through: Mr. Arvind Nayar, Advocate
alongwith Mr. Zeyaul Haque,
Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Seema Singh, Advocate for Ms.
Rashmi Srivastava, Advocate for R-
4/Allahabad Bank.
Mr. Ashok Chauhan, Wing
Commander-Indian Air Force.

AND

+ W.P.(C) 6971/2011
KULDEEP SINGH

..... Petitioner

Through: Mr. Arvind Nayar, Advocate
alongwith Mr. Zeyaul Haque,
Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ankur Chhibber, Advocate.
Mr. Jagat Arora, Advocate alongwith
Mr. Rajat Arora, Advocate for R-3 &
R-4.
Mr. Ashok Chauhan, Wing
Commander-Indian Air Force.

AND

+ W.P.(C) 7341/2011 & CM No. 16648/2011
ABISHEK RANJAN

..... Petitioner

Through: Mr. Arvind Nayar, Advocate
alongwith Mr. Zeyaul Haque,
Advocate.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Anurag Ahluwalia, CGSC
alongwith Mr. Prashant Ghai,
Advocate.

Mrs. Rachna Joshi Issar, Advocate
alongwith Ms. Ambreen Rasool,
Advocate for R-3 and R-4.

Mr. Ashok Chauhan, Wing
Commander-Indian Air Force.

AND

+ W.P.(C) 6970/2011
SUNIL KUMAR

..... Petitioner

Through: Mr. Arvind Nayar, Advocate
alongwith Mr. Zeyaul Haque,
Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vivek Goyal, CGSC.
Mr. Jagat Arora, Advocate alongwith
Mr. Rajat Arora, Advocate for R-3 &
R-4.
Mr. Ashok Chauhan, Wing
Commander-Indian Air Force.

AND

+ W.P.(C) 7498/2011 & CM No. 16993/2011
NIRAJ KUMAR AGARWAL

..... Petitioner

Through: Mr. Arvind Nayar, Advocate
alongwith Mr. Zeyaul Haque,
Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vivek Goyal, CGSC.
Mr. Jagat Arora, Advocate alongwith
Mr. Rajat Arora, Advocate for R-3 &
R-4.
Mr. Ashok Chauhan, Wing
Commander-Indian Air Force.

AND

+ W.P.(C) 5425/2012 & CM No. 11047/2012
ANUP KUMAR Petitioner
Through: Mr. Arvind Nayar, Advocate
alongwith Mr. Zeyaul Haque,
Advocate.
versus
UNION OF INDIA & ORS. Respondents
Through: Ms. Vibha Mahajan Seth, Advocate
for Bank of Maharashtra.
Mr. Ravi Bhushan, Advocate
alongwith Mr. Rinku Choudhary,
Advocate for R-3 and R-4.
Mr. Ashok Chauhan, Wing
Commander-Indian Air Force.
AND
+ W.P.(C) 3695/2013 & CM No. 6924/2013
SUBHASH KUMAR Petitioner
Through: Mr. Arvind Nayar, Advocate
alongwith Mr. Zeyaul Haque,
Advocate.
versus
UNION OF INDIA & ORS. Respondents
Through: Mr. Vivek Goyal, CGSC.
Mr. Ashok Chauhan, Wing
Commander-Indian Air Force.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

1. The petitioners are questioning inaction of the Indian Air Force in not discharging them from service. All of them had applied for a selection by various public sector banks to the post of Probationary Officer which carried a pay-scale of ₹ 14,500- ₹ 25,700/- at the relevant time in 2011. The Air Force which has been impleaded as a respondent contends that two essential

eligibility conditions were applicable namely that the individual- where group 'A' posts are concerned should have put in a service of atleast 7 years in the Air Force and that the group 'A' post which was applied to should have carried a pay-scale maximum for which should not have been less than ₹ 39,100/- (pay-scale as applicable after communication No. WAC/S 3211/P3 dated 29.05.2009). Prior to this the applicable order in AFO 14/2008 dated 19.09.2008 had grouped or classified group 'A' as carrying a maximum pay of not less than ₹ 13,500/- per month- as revised from time to time.

2. At the stage when these petitions were entertained, several other proceedings which were pending before the Court. All these were heard and a common judgment was delivered in Bikram Singh vs. Union of India (W.P.(C) No. 3024/2011) in connected cases decided on 18.05.2011. The Court rejected the writ petitioners contentions in those proceedings that the maximum pay-scale stipulated on 09.04.2009 was inapplicable. This contention was primarily based on the interpretation of AFO No. 14/2008. The Court had discussed this precise issue and has held as follows:-

“20. It was urged by learned counsel for the petitioner that we have no material wherefrom it can be gathered that the post to which the petitioners had applied, as per the advertisement issued, disclosed the pre-revised or the revised scales of pay. We agree. Unfortunately, learned counsel for the banks could throw no light. But, all learned counsel were in agreement that in terms of industry level settlement dated 27.04.2010 where all public sector banks and the unions of the employees had hammered out a settlement, pay-scales had to be revised as per the settlement.

21. Thus, one issue of law admittedly gets settled, being that, reference in the pay-scale being not less than ₹ 13,500 pertaining to Group 'A' post in AFO 14/2008 is with reference to the pay-scale prior to the implementation of the 6th Central Pay Commission's recommendations and the corresponding sum would have to be worked out with reference to the latest Office Memorandum issued by the Government on the subject and the relevant content whereof has been extracted by us in para 17 above.

22. We may note that on 22.05.2009 the Air Headquarters had issued a clarificatory order in harmony with what we have observed herein above.

23. Thus, the only relief which the petitioners can obtain is requiring a direction to be issued to the respective bank to forthwith convey to the Air Force Authorities whether the pay-scale referred to in the advertisements issued by the respective bank and pursuant whereunto petitioners applied were the pre-revised or the pay-scales after revision, and if the pay-scales were pre-revised, the corresponding scale post-revision. Thereupon, Air Force Authorities would do the needful and if the information provided is that the scales of pay were pre-revised, by taking into consideration the revised scales of pay, if the posts are a Group 'A' post in the pay-scale maximum of which is not less than the sum equivalent to ₹13,500/-, post revision, to grant the necessary No Objection to the petitioners without considering the criticality of the trade; and if the information provided by the bank is that the advertisements referred to the revised scale of pay, issue of criticality would be considered and if not found critical to the trade in which the respective petitioner is working, to issue the necessary No Objection Certificate.

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32. *The submissions has no legs to stand on for the reason there may be a different criteria for categorizing posts in the banking sector vis-a-viz their categorization for civil services. What is of relevance is para 1 of the Air Force Order No.14/2008 where group 'A' posts the maximum of the pay-scale whereof is not less than ₹13,500/- as revised from time to time. Thus, for the purposes of para 1 of the Air Force Order No. 14/2008 the essential condition has to be that the maximum of the pay scale for the post has to be not less than `13,500/- as revised from time to time. We have already discussed hereinabove the effect of the figure ` 13,500/- being qualified by the expression 'as revised from time to time'.*

3. It was sought to be urged to the grounds reiterated in these petitions that the banks have since revised their pay scales w.e.f. February, 2015 and that Probationary Officers pay scale carry a maximum amount of ₹ 42,000/- approximately. In these circumstances, Mr. Nayar, learned counsel submitted that the Court shall take note of these subsequent developments and make appropriate orders directing the Indian Air Force to discharge the service.

4. This Court is of the opinion that the subsequent developments which are relied upon by the petitioners can not in any manner help them. Pay revised in various organisations-public sector banks being no exception-are

necessary on account of various compulsions. Apparently, the public sector banks follow uniform pay revisions procedures whereby settlements are arrived at in a different periodicity. In the absence of any settled parity, it would not be appropriate for the Court to infer that the post to which the petitioners had applied and were selected, with pay-scale carrying ₹ 14,500/- is a Group 'A' post in terms of AFO 14/2008 as clarified on 22.05.2009.

5. Learned counsel appearing for the respondents for Indian Air Force submitted on instructions that the initiation of the present petitions would not be taken adversely against them and that they are free to apply on the basis of their own eligibility if any future occasion arises in accordance with the prescribed procedure.

6. In view of the above discussion, we are of the opinion that the logic and reasoning which this Court was persuaded to accept in *Bikram Singh (supra)* is clearly applicable to the circumstances of these cases. The writ petitions are dismissed as meritless.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 11, 2015

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