

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

+ **WP(C) No.216/2000**

% **Date of Decision: 06.02.2012**

J.P.Dubey Petitioner

Through Nemo

Versus

Union of India & Ors. Respondents

Through Dr.Ashwani Bhardwaj & Mr.Jitender,
Advocates

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

ANIL KUMAR, J.

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1. The petitioner has sought a direction to the respondents to pay arrears of salary in the pay scale of ₹4500-150-5700/- per month during the period from 17th August, 1987 to 9th July, 1990 along with interest and the litigation expenses incurred by the petitioner in approaching the High Court of Allahabad and this Court.

2. The petitioner contended that he was directly recruited as Deputy Superintendent of Police in the Central Reserve Police Force (CRPF) w.e.f. 8th February, 1967. The petitioner was promoted as Commandant in the year 1983 and was further promoted to Selection Grade Commandant during May, 1985. The petitioner disclosed that some

Emergency Commissioned Officers were released from army and were given jobs in the CRPF/BSF and other forces and they were given benefits of their services of army and were placed senior to the petitioner who was directly recruited in the year 1967. Such officers have challenged the promotion of the petitioner and other officers and the High Court had passed the order directing the reversion of the petitioner along with his batch mates.

3. Aggrieved by the said order, the petitioner and his batch mates had approached the Supreme Court. The Supreme Court by order dated 14th March, 1989 had directed that the petitioner and his batch mates be allowed to retain their original rank by creating supernumerary posts of selection grade commandant. According to the petitioner, he was among the selection grade commandant on the date of judgment of the Supreme Court dated 14th March, 1989 and was entitled for the scale of ₹4500-150-5700/-. The petitioner, therefore, claimed the arrears of pay at the said scale. Pursuant to the clarification given to the order dated 14th March, 1989 directions were given to the Govt. by order dated 11th December, 1989 to grant all financial benefits.

4. The grievance of the petitioner is that although the arrears of pay have been given to all his batch mates but the petitioner has not been given the arrears. The petitioner further disclosed that he was sent on deputation as Assistant Director to the Intelligence Bureau w.e.f. 17th

August, 1987 where he had remained till 9th July, 1990 and thereafter he joined back his parent department. The petitioner, therefore, made the representation for arrears of pay which has been denied to him leading to filing of the present writ petition.

5. The petition was contested by the respondents and an affidavit of Sh.V.K.Bhasin, working as Joint Assistant Director, was filed contending, inter-alia, that the petitioner was working in CRPF and was taken on deputation on the post of Assistant Directing in the scale of ₹ 3000-100-3500-150-4500/- in the Intelligence Bureau w.e.f. 17th August, 1987. The petitioner opted to draw his pay in the parent cadre pay scale and was allowed the pay of ₹4100/- in the scale of ₹4100-125-4850-5300/- w.e.f. 17th August, 1987. The pay of the petitioner at that time did not exceed the maximum of the deputation post. Since pursuant to the judgment of the Supreme Court by order dated 14th March, 1989 he was given deemed promotion as Selection Grade Commandant in the scale of ₹4500-5700/- w.e.f. 2nd September, 1985, 37 supernumerary posts of commandant were created w.e.f. 2nd September, 1985. According to the Intelligence Bureau, the CRPF was informed on 13th March, 1990 that the petitioner had been adjusted against the supernumerary posts of commandant (Selection Grade) w.e.f. 2nd September, 1985 and his pay has been fixed at ₹4500/- w.e.f. 1st January, 1986. According to respondent No.2, revised LPC showing

the pay of the petitioner as ₹4650/- as on 14th August, 1987 had been received from respondent No.3/CRPF by letter dated 13th March, 1990.

6. Respondent No.2 has further contended that as the pay of the petitioner exceeded the maximum of pay of scale of the post of Assistant Director in Intelligence Bureau, he was repatriated to his parents department/respondent No.3 on 9th July, 1990. When the petitioner was taken on deputation in the Intelligence Bureau, he was not in the pay scale of ₹ 4500-5700/-. The matter was referred to respondent No.1, Union of India, who in consultation with the Ministry of Law had concurred that higher pay was not admissible to the petitioner during the period of deputation as Assistant Director in Intelligence Bureau as per prevailing deputation rules and also there was no justification for creating the supernumerary posts for this deputation period. This was informed to the petitioner by Memo dated 11th January, 1995.

7. Aggrieved by the pleas and contentions of respondent No.2, a Civil Miscellaneous Writ Petition No.39301/1994 was filed in the High Court of Allahabad and an order dated 28th August, 1995 was passed directing the respondents for payment of arrears to the petitioner. Since the order of the High Court of Allahabad was not complied with, the petitioner has approached the Allahabad High Court vide Civil Miscellaneous Writ Petition No.13645/1996 to order the respondents regarding the claim of the arrears which was disposed of with direction

that since the respondents are at New Delhi, therefore, the jurisdiction for considering the claim of the petitioner is with the High Court of Delhi at New Delhi. The petitioner has thereafter filed the present writ petition.

8. No counter affidavit has been filed on behalf of respondent No.3/CRPF.

9. No one is present on behalf of the petitioner. No one was present on behalf of the parties on 31st January, 2012.

10. In the circumstances, this Court is left with no option but to dismiss the writ petition in default of appearance of the petitioner or his counsel. The writ petition is dismissed in default.

ANIL KUMAR, J.

SUDERSHAN KUMAR MISRA, J.

FEBRUARY 06, 2012

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