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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : August 02, 2016

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W.P.(C) 9381/2014

VINOD KUMAR & ORS

..... Petitioners

Represented by: Ms.Saahila Lamba, Advocate with
Mr.T.S.Dagar, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Represented by: Mr.J.K.Singh, Standing Counsel for
Railways

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. After the recommendations of the 6th Central Pay Commission were accepted by the Government of India the CCS (Revised Pay) Rules, 2008 were promulgated and the pay fixation of the Central Government employees post January 01, 2006 had to be as per the Revised Pay Rules, 2008. Rule 7(A)(1) (ii) of the Revised Pay Rules prescribed as under:-

“7. Fixation of initial pay in the revised pay structure:

(1)

(A) in the case of all employees:-

(i) the pay in the pay band/pay scale will be determined by multiplying the existing basic pay as on 1.1.2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10.

(ii) If the minimum of the revised pay band/pay scale is more than the amount arrived at as per (i) above, the pay shall be fixed at the minimum of the revised pay band/pay scale;

2. Mirroring the CCS (Revised Pay) Rules, 2008 the Ministry of Railways has promulgated the Railway Services (Revised Pay) Rules, 2008 and we note that except for the title of the Rules, both Rules are completely identical. Meaning thereby Rule 7(1)(A) (i)(ii) of the Railway Services (Revised Pay) Rules is the same as that of the CCS (Revised Pay) Rules.

3. A perusal of clause (i) of Rule 7(1)(A) makes it clear that the pay in the pay band post January 01, 2006 shall be determined by multiplying existing pay as of said date by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10. Once this exercise is done clause (ii) of the Rule comes into play and mandates that if the minimum of the revised pay scale is more than the amount arrived at as per (i) above the pay shall be fixed at the minimum of the revised pay scale.

4. Both Rules have a first Schedule in which with reference to the pre-existing pay scales the revised pay bands with corresponding grade pay have been enlisted and for the S-6 pay scale the corresponding pay band is PB-I with Grade Pay ₹2000.

5. As per Section II of the First Schedule under the caption **Entry Pay in the Revised Pay Structure for Direct Recruits appointed on or after 1.1.2006**, pertaining to PB-I it is provided as under:-

PB-1 (₹5200-20200)

Grade Pay	Pay in the Pay Band	Total
1,800	5,200	7,000

1,900	5,830	7,730
2,000	6,460	8,460
2,400	7,510	9,910
2,800	8,560	11,360

6. Suffice it to state that for a direct recruit appointed on or after January 01, 2006, for a post carrying Grade Pay ₹2000, the entry pay is ₹6460.

7. The petitioners are constables in the Railway Protection Force and are aggrieved by the fact that as of January 01, 2006, applying Rule 7(1)(A) (i) and overlooking clause (ii), the basic pay of the petitioners in PB-I has been fixed at ₹6060 with Grade Pay ₹2000 and in some Divisions the basic pay has been fixed at ₹6460.

8. With reference to the examples given, the stand of the respondent is that some Divisions have wrongly fixed the basic pay of constables as of January 01, 2006 at ₹6460. It is pleaded that corrective action is being taken.

9. Now, concededly the post of constable is an entry level post and appointment is by direct recruitment. Thus, as per Section II to the first Schedule of the Rules, the entry pay in the revised pay structure for direct recruits for a post having Grade Pay ₹2000 would be ₹6460 and thus clause (ii) of Rule 7(1)(A) has to be given effect to. Such Divisions of the Indian Railways which have fixed the basic pay of constables at ₹6460 with Grade Pay ₹2000 have correctly interpreted the rule and have correctly fixed the pay. Such Divisions which have not done so are obviously are in the wrong.

10. The writ petition is accordingly allowed. A mandamus is issued to the respondents to fix the basic pay of the petitioners who were working as

constables in the Railway Protection Force as of January 01, 2006, at ₹6460.
The Grade Pay already fixed at ₹2000 is maintained.

11. The petitioners shall be paid the arrears within 12 weeks from today.
12. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

AUGUST 02, 2016
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