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

% *Date of Decision : July 13, 2016*

+ **W.P.(C) 11622/2015**

SOHAN LAL KAPOOR Petitioner

Represented by: Mr.Anunaya Mehta, Advocate

versus

CENTRAL RESERVE POLICE FORCE & ANR Respondents

Represented by: Mr.Kamal Kant Jha, Sr.Panel Counsel
with Mr.S.S.Sejwal, Law Officer

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. The petitioner was enrolled as a Constable in CRPF on July 04, 1971 and in May 17, 1979 was sent on deputation to Intelligence Bureau. He was sent by the Ministry of External Affairs to Lagos in Nigeria and thereafter to New York, America. On January 11, 1991 petitioner suffered serious head injuries on account of a stated attack by two Americans. He was repatriated to Indian and rejoined CRPF. On July 08, 1991 the petitioner was attached with the 71st Bn. On December 15, 1995 a departmental inquiry was initiated against the petitioner on the allegation that in America he had unauthorizedly worked for a private company named Exxon Gas Station and had accumulated assets disproportionate to his income. The petitioner was also alleged to have stolen some money of a co-employee.

2. The Inquiry Officer found no concrete evidence and submitted a report exonerating the petitioner. The Disciplinary Authority agreed with

the report of the inquiry officer and the outcome of the inquiry was sent to the DG CRPF who did not agree with the report of the inquiry officer. Rather than pen a note of disagreement, the DG CRPF recommended action to be taken under Article 311(2)(b) of the Constitution of India read with Rule 27 (cc) (iii) of the CRPF Rules, 1995. It resulted in an order dated June 30, 1996 being passed noting that the charges were serious and it may not be possible to prove the same. Appeal filed against the said order was rejected on September 02, 1996.

3. The petitioner proceeded to this Court. He filed W.P.(C) No.4604/1996 which was allowed on August 11, 2008. The penalty of removal from service was set aside. Noting that in the interregnum the petitioner would have superannuated on August, 2005, the direction issued vide order dated August 11, 2008 by the Division Bench was as under:-

“10. A writ of mandamus is issued quashing the impugned order dated 30.06.1996 with a direction that the petitioner, as a consequence of the aforesaid, be notionally retired from service and deemed to have retired on his date of superannuation and thus would be entitled to all the monetary benefits of service including the retirement benefits. The amount be remitted within a period of three months from today.”

4. Instant writ petition was necessitated inasmuch as the direction issued by the Division Bench that the petitioner would be entitled to all monetary benefits of service including retirement benefits has not been fully complied with. Persons immediately junior to the petitioner were promoted in the period interregnum petitioner being removed from service and reinstated. The petitioner was granted benefit of some promotions but not to the rank of Sub-Inspector, which petitioner claims needs to be granted to him with effect from February, 2004. The petitioner claims HRA, travelling allowance, bonus and ration money in addition.

5. In ground C of the writ petition, the petitioner has given names of Diwan Singh, Jaswant Singh and Nanda Ballabh, as also of one Khairati Lal Kaushik, with further plea that all of them were enrolled as members of the force along with petitioner and that they have been accorded promotion to the rank of Sub-Inspector in February, 2004. The petitioner highlights that he would have superannuated in August, 2005, and thus claims parity with the four gentlemen.

6. The counter affidavit filed is wishy-washy on said aspect of the matter and thus at the hearing held on April 01, 2016 it was directed that the respondents shall file an additional affidavit specifically dealing with the facts pleaded by the petitioner in ground C of the writ petition. Regretfully, till date compliance has not been made with the order dated April 01, 2016. However, learned counsel for the parties agree that as regards said prayer a declaration may be granted to the effect that if the department has promoted any person junior to the petitioner as a Sub-Inspector, the petitioner would be granted notional promotion with all consequential benefits to the post of Sub-Inspector from said date.

7. The counter affidavit is replete with the past history leading to the petitioner being removed from service and reinstated, a pleading which is irrelevant. We find that in the counter affidavit the respondents have not justified denial of HRA, travelling allowance, bonus and ration money.

8. Notwithstanding that, suffice it to state that travelling allowance is paid when a member of a force on duty travels. It is actual expenses reimbursed. For the reason during the interregnum period after petitioner was removed from service and till he was reinstated he never travelled officially and incurred no expenses, no travelling allowance is payable. As regards ration money, none has to be paid because members of the force if

on leave for more than two months are not paid the ration money. The logic of paying ration money is to ensure that the members of the force eat nutritious food with calorie intake more than the normal calorie intake required by humans performing normal work because the force members have to remain extra fit and perform hard duties. We are of the opinion, for the interregnum period the petitioner would not be entitled to any ration money. But HRA and bonus would be payable for the reason all consequential benefits directed to be paid by the Division Bench must include such allowances which are paid as a matter of right to a government servant who is paid salary from the consolidated fund of India.

9. Accordingly, the petition is disposed of directing respondents to pay HRA and bonus to the petitioner. Claim for travelling allowance and ration money is disallowed. It is declared that if any person junior to the petitioner has been promoted as a Sub-Inspector before August 2005 the petitioner shall be likewise promoted on notional basis with effect from said date and would be paid salary in the grade in which Sub-Inspectors are paid. Necessary exercise shall be carried out within 6 weeks from today. Arrears shall be paid within 4 weeks thereafter. If petitioner is promoted as a Sub-Inspector from the date person immediately junior to him was promoted, petitioner's pension would be re-fixed.

10. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JULY 13, 2016/mamta