

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

Date of Order: May 10, 2018

+ **W.P.(C) 10491/2016**

AJAY KUMAR Petitioner

Through: Mr. Sunny Choudhary, Mr.
Abhimanyu Singh and Mr. Manoj
Kumar, Advocates

versus

CENTRAL BANK OF INDIA & ANR. Respondents

Through: Mr. R S Mathur, Advocate for R-1
Mr. Jagat Arora and Mr. Neeraj
Kumar, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioner was re-employed with respondent-Bank as Armed Guard on 1st July, 2011 after he had retired from Armed Services in September, 2002. In this petition, quashing of letter of 15th September, 2015 (Annexure P-1) is sought while relying upon DoPT's O.M. of 5th April, 2010 and another O.M. of 8th November, 2010.

2. Impugned order (*Annexure P-1*) clarifies that Indian Bank Association's Circular is applicable to persons re-employed in government service after retirement from Armed Forces. In the counter affidavit filed by respondent-Bank, the stand taken is that the aforesaid OMs of the year 2010 are not applicable and the re-fixation of pay of Ex-servicemen re-employed in the respondent-Bank after 1st January, 2006

and in respect of those Ex-servicemen retired before 1st January, 2006 has been done as per the Guidelines issued by Indian Banks' Association for pay fixation of Ex-servicemen re-employed in Indian Banks' Association and the said guidelines has been annexed as (*Annexure R-1*).

3. It is disclosed in the counter filed by the respondent-Bank that petitioner's salary has been fixed at basic pay of ₹5,850/- per month.

4. Learned counsel for petitioner submits that the aforesaid fixation of petitioner's salary is in contravention of Clause 2.1 (ii) which requires grant of stagnation increment, Rank Pay plus Dearness Pay and Dearness Allowance which according to learned counsel for petitioner ought to be 117% and not 52.80% as the dearness allowance cannot be stagnant.

5. On the contrary, learned counsel for respondent-Bank maintains that the re-fixation of pay of petitioner on re-employment is as per the Guidelines (*Annexure R-1*).

6. Upon hearing and on perusal of impugned order, the material on record, I find that the fixation of petitioner salary as per paragraph no: 9 of the counter affidavit, needs to be re-considered in light of the Guidelines (*Annexure R-1*) as those Guidelines takes note of OM's of 5th April, 2010 and 8th November, 2010.

7. Whether the case of petitioner falls in Clause 2.1 (ii) or Clause 2.3 of the aforesaid Guidelines (*Annexure R-1*) needs to be clarified by the respondent-Bank. Let the reconsideration of re-fixation of petitioner's salary be done within a period of twelve weeks and its fate be intimated to petitioner so that petitioner may avail of the remedy as available in law, if need be.

8. With the aforesaid directions, this petition is disposed of.

(SUNIL GAUR)
JUDGE

MAY 10, 2018

P

