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

+ W.P.(C) 5530/2017

NEYAZ AHMAD

..... Petitioner

Through: Mr.Ankur Chhibber, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Dr.Ashwani Bhardwaj, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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18.04.2018

1. Learned counsel for the petitioner states that the factual position of the present case is identical to the facts that were considered by a Division Bench of this Court in W.P.(C) 3827/2012, entitled Naveen Kumar Jha vs. Union of India & Ors., which was allowed on 02.11.2012. A copy of the judgment dated 02.11.2012 has been enclosed with the present petition and marked as Annexure-P7. He further states that the Union of India had challenged the aforesaid decision before the Supreme Court in CC No.13755/2013 which was dismissed on 12.08.2013.

2. Learned counsel for the petitioner states that apart from the judgment in the case of Naveen Kumar Jha (supra), similar relief has been granted by the High Court to some other petitioners who had sought parity on facts stated in Naveen Kumar Jha (supra), including in W.P.(C) 3348/2015, entitled Sh.Shashank Shekhar Mishra vs. Union of India & Ors., which was

allowed vide order dated 09.04.2015 and in W.P.(C) 8546/2016, entitled Anjan Kumar Mandal vs. Union of India & Ors., that was allowed vide judgment dated 28.11.2017.

3. On enquiring from learned counsel for the respondents as to whether the fact position in the present case is similar to those wherein the above decisions have been rendered, learned counsel states in all fairness that the fact position is no different and the law has been declared with regard to re-fixation of seniority in the case of Naveen Kumar Jha (supra).

4. Accordingly, the present petition is allowed and it is directed that the petitioner's seniority to the post of Sub-Inspector be re-fixed, in accordance with Rule 8(b)(2) of the CRPF Rules by granting him seniority with reference to those Sub-Inspectors who had joined the CRPF as members of the SSC, 2000 batch, w.e.f. March, 2003. The petitioner shall be entitled to notional fixation of pay w.e.f. March, 2003. The petitioner shall also be entitled to all the consequential benefits except for back wages, on the principles of not having shouldered the responsibilities of a higher post.

5. Further, having regard to the fact that the petitioner's seniority has been directed to be reckoned from March, 2003, it is directed that he shall be entitled to be covered under the Old Pension Scheme, that was in force till 31st December, 2003.

6. The present petition is disposed of. No orders as to costs.

HIMA KOHLI, J.

PRATIBHA RANI, J.

APRIL 18, 2018

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