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

\+ **W.P.(C) 12525/2018**

SURENDRA DUTT BHATT AND ORS. ..... Petitioners

Through: Mr. K. K. Sharma, Advocate.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr. Prasanta Varma, Senior Counsel with Ms. Prativa Rani Varma and Ms. Shalu Goswami, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE SANJEEV NARULA

O R D E R

% **26.11.2018**

CM APPL. 48608/2018 (Exemption)

1. Exemption allowed, subject to all just exceptions.

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2. This writ petition by Sub-Inspectors ('SI') of the CRPF who were initially recruited as Constable (GD) pray for the quashing of a letter dated 8th April 2015, fixing their pay scale at Rs.9,300/- plus grade pay of Rs.4,200/- with effect from the date on which the Petitioners completed 24 years of service. According to the Petitioners, their pay ought to be fixed at Rs.10,230/- plus grade pay of Rs.4200/- (Rs.1500/- x 1.86) which was due to them with effect from the date on which the Petitioners completed 24 years of service pursuant to the grant of benefit of the second financial upgradation under the Assured Career Progression Scheme ('ACP Scheme')

with all consequential benefits.

3. The Petitioners placed reliance on the judgments dated 11th October 2017 passed by this Court in ***SI/GD Shambhu v. Union of India*** [W.P.(C) 9359/2016 & connected matters] as well as the judgment dated 12th January 2018 in ***Jas Ram v. Union of India*** [W.P.(C) 332/2017 & connected matters].

4. The background to these petitions has been noticed in the judgment of this Court in ***Shambhu*** (*supra*). The Petitioners therein, as the present Petitioners, were granted the benefit of second financial upgradation under the ACP Scheme in the year 2015 under different orders and from dates prior to 2006 as and when each of them completed 24 years of service. In terms of Rules 5 and 7 of the Central Civil Services (Revised Pay) (Rules) 2008 ('2008 Rules'), an option was given to government servants to continue to draw pay in the existing pay scale until the date on which the next subsequent increment in the existent scale is earned or till he vacates his post or seeks to withdraw that scale. In terms of the second proviso to Rule 5, a government servant placed in a higher pay scale on account of promotion, upgradation of pay, etc. between 1st January 2006 and 29th August 2008 (the date of notification of the 2008 Rules) was given an option to switch over to the revised pay structure from the date of his promotion, upgradation, etc. Rule 7 of the 2008 Rules related to the fixation of initial pay in the revised pay structure. A government servant would, in terms of Rule 6(3), be governed by the revised pay structure under the 2008 Rules with effect from 1st January 2006, unless it was directed by a special

order that his pay would be fixed separately. Rule 7(1)(A)(i) stated that the pay band/pay scale would be determined by multiplying the existing basic pay as on 1st January 2006 by a factor of 1.86 and rounding off the resultant figure to the next multiple of 10. Clause (ii) states that when a minimum revised pay band/pay scale was more than the amount arrived at by applying the aforesaid multiplier, the pay would be fixed at the minimum revised pay band/pay scale.

5. The grievance in ***Shambhu*** (*supra*) was that, although the Respondents had correctly fixed the revised pay scale at Rs.10,230/- by using the multiplier of 1.86 to the existing basic pay as on 1st January 2006, subsequently they fixed at the minimum pay band of Rs.9,300/-. It was pointed out before this Court that the petitioners therein did not have to exercise their option under the proviso to Rule 5 on or before 31st March 2013 because the second financial upgradation benefit was given to them only in 2015.

6. The Court accepted the above plea and directed that those Petitioners would be restored to the pay scale of Rs.10,230/- plus grade pay of Rs.4,200/-.

7. The Court finds that the facts of the present case are no different. There is no reason why the present Petitioners should not be granted the same benefit that was granted to the petitioners in ***Shambhu*** (*supra*). It appears that *vis-à-vis* the order dated 11th October 2017 in ***Shambhu*** (*supra*), a contempt petition was filed in this Court and a statement has been made by the Respondents in those proceedings that they are implementing the decision of

this Court in ***Shambhu*** (*supra*). Further, in the case of one Harkesh Tyagi who was a similarly placed petitioner in W.P.(C) 341/2017, it was noticed by the Court that the Respondents had already granted the benefit of exercising the option although he had been granted the second financial upgradation only in March 2015.

8. Consequently, the writ petition is allowed. The Respondents are directed to fix the pay scales of the Petitioners at Rs.10,230/- with grade pay of Rs.4,200/- with effect from the date on which each of them completed 24 years of service. The consequential orders shall be issued by the Respondents within a period of eight weeks from today.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

NOVEMBER 26, 2018

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