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

+ **W.P.(C) 5738/2019**

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..... Petitioner

Through Mr. A.K.Trivedi with Mr. Naveen
Kumar, Advocates
versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr. K.V.Sreenathan, SPC with
Ms. Rajul Jain and Mr. Vardhan
Gupta, Advocates

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER
17.12.2019

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1. The short prayer in the present petition by the widow of former inspector of the Central Reserve Police Force ('CRPF') is that a direction should be issued to the Respondents to fix her family pension at Rs. 4887/- per month with effect from 1st January, 2006 in accordance with the Office Memorandum ('OM') dated 28th January, 2013.

2. The brief facts are that the Petitioner's husband retired from CRPF on 1st January, 1993 on completing 33 years of qualifying service. During his lifetime, he was in receipt of service pension. On the recommendations of the 4th Central Pay Commission ('CPC') for all posts in the Central Armed Police Forces ('CAPFs') the pay scale for the post of Inspector was revised

to Rs. 1640-2900/-. On implementation of the recommendations of the 5th CPC, this pay scale was revised, with effect from 1st January, 1996 to Rs. 5500-9000/- and further to Rs.6500-10500/-. The Department of Personnel and Training ('DoPT') issued the aforementioned OM dated 28th January, 2013 on the subject of revision of pre-2006 pensioners.

3. In para 3 of the said OM it was stated that the normal family pension in respect of pre-2006 pensioners/family pensioners, as revised from 1st January, 2006, would in terms of paras 4.1 and 4.2 of the OM dated 1st September, 2008 be further stepped up to 50% of the sum of minimum of pay in the pay band and the grade pay corresponding to the pre-revised pay scale in which the Government servant had retired. There is also a fitment table enclosed to the OM, in terms of which for a post with the pay scale of Rs. 6000-10500/- as on 1st January, 1996 the family pension amount is mentioned as Rs.4887/-.

4. It is pointed out that as far as the Petitioner's husband is concerned, his service pension was fixed at Rs.7215/-, without giving the benefit of OM dated 10th October, 1997, whereas it was required to be fixed as Rs. 8145/-. In the pension payment order dated 26th August, 2014 his pension was wrongly shown in the pay scale of Rs.5500-9000/- in the pay band of Rs.9300-34800/- with grade pay of Rs.4200/-, whereas it should have been shown in the pay scale of Rs.6500-10500/-.

5. In the case of one Mr. Bhoop Singh, who also retired as an Inspector of the CRPF, this Court passed an order on 7th October, 2015 in W.P.(C) No.

1650/2015 holding that the fixation of his service pension ought to have been Rs. 8145/- according to the fitment table appended to the OM dated 28th January, 2013 instead of Rs.7215/-. The order dated 7th October, 2015 of this Court in Bhoop Singh's case was affirmed by the Supreme Court by dismissal on 21st November, 2019 of the SLP filed by the Union of India.

6. In response to the present petition, it is stated by the Respondents in their counter affidavit that since the Petitioner retired prior to 1st January, 1996, he could not be granted the benefit of the Government of India order dated 10th October, 1997, and that the family pension was correctly determined as Rs. 6901/- with effect from 1st January, 2006 and now Rs.12,690/- with effect from 1st January, 2016.

7. As regards the averments in para 11 of the writ petition that the Petitioner's case is no different from that of Bhoop Singh's, there is a bald denial stating that the case of Inspector Bhoop Singh was "distinct in nature." On the other hand, the Court finds that the case of Bhoop Singh is no different, except that Bhoop Singh retired even two years prior to the Petitioner's retirement, on 6th September, 1991.

8. In that view of the matter, the Court finds no justification in the Petitioner being denied the family pension worked out on the basis that the Petitioner's husband's pay scale which was revised already to Rs.6500-10500/- consequent upon the 6th CPC. A direction is issued to the Respondents to revise the pension payment order to reflect the family pension payable to the Petitioner as Rs.4887/- with effect from 1st January, 2006 and also compute

the family pension payable to her with effect from 1st January, 2016 on that basis. The arrears of family pension be paid to the Petitioner within 12 weeks, failing which simple interest at 6% p.a. will be payable on the said sum for the period of delay.

9. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 17, 2019

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