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

+ **W.P.(C) 3621/2017**

RITU RAJ

..... Petitioner

Through: Ms. Padma Kumar S., Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Ruchir Mishra, Advocate with
Mr. Mukesh Kumar Tiwari and
Mr. Abhishek Rana, Advocates.

+ **W.P.(C) 3777/2017**

BIJAY KUMAR SINGH

..... Petitioner

Through: Ms. Padma Kumar S., Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Ruchir Mishra, Advocate with
Mr. Mukesh Kumar Tiwari and
Mr. Abhishek Rana, Advocates.

+ **W.P.(C) 3780/2017**

SANTOSH KUMAR

..... Petitioner

Through: Ms. Padma Kumar S., Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Ruchir Mishra, Advocate with
Mr. Mukesh Kumar Tiwari and
Mr. Abhishek Rana, Advocates.

+

JAI PAL

W.P.(C) 3781/2017

..... Petitioner

Through: Ms. Padma Kumar S., Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr. Ruchir Mishra, Advocate with
Mr. Mukesh Kumar Tiwari and
Mr. Abhishek Rana, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

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25.03.2019

1. These are four petitions seeking similar reliefs and accordingly are being disposed of by this common judgment. The prayer in each of the petition is that a direction should be issued to the Respondents to treat the Petitioners along with the batch mates of CPO 2002 for the purposes of opting for the old pension scheme which was invoked prior to 31st December 2003 with all consequential benefits.

2. The facts in W.P.(C) 3621/2017 are that the Petitioner Ritu Raj applied for the Central Police Organization ('CPO') (Examination 2002) conducted by the Staff Selection Committee ('SSC'). The final result was declared in July/August 2003. The Petitioner was called for training in December 2003 and was directed to report to TC&S Hazaribagh for basic training.

3. While on the way to Hazaribagh, the Petitioner met with an accident and

therefore, could not report for training. The Doctor diagnosed the Petitioner to be having a pelvic disc slip case and advised complete bed rest.

4. On 1st May 2005, the Petitioner made a representation to the Commandant SSB Cell for extension of the date of joining for training. The Petitioner was given an extension and permitted to join training with the next batch i.e. Batch No. 45, which was scheduled to start on 1st January 2005. The Petitioner joined the basic training at BSF Academy, Tekanpur on 1st January 2005 and successfully completed the basic training.

5. On 23rd January 2016, the Petitioner made a request that the same benefits extended to the Petitioner in W.P.(C) 3834/2013 (*Parmanand Yadav v. Union of India*) by the decision dated 12th February 2015 of this Court should be extended of the Petitioner as well and he must be given the option of the Old Pension Scheme.

6. As far as W.P.(C) 3781/2017 is concerned, the Petitioner Jai Pal also qualified in the CPO 2002. However, since he did not get a joining letter, he personally visited the Respondents. It was found that the call letter had been sent to his earlier address from where he had shifted. After his new address was furnished, the Respondents issued a letter dated 27th December 2004 asking him to report for training with the next batch.

7. In W.P.(C) 3777/2017, the petitioner Bijay Kumar Singh qualified in the CPO 2001 exam, result of which was declared on 24th December 2002. Since the Petitioner was afflicted by Jaundice, he could not appear for the

basic training which commenced on 19th January 2003. He was given extension of three months on account of his illness and joined the 44th Batch for training.

8. As regards W.P.(C) 3780/2017, the Petitioner Santosh Kumar qualified in the CPO 2002. When he did not receive any information about being called for training, he personally visited the headquarters and was informed that the order for his joining the training had been dispatched in the month of December 2003. After making many requests, he received the letter in January 2005 and thereafter joined training with the subsequent batch.

9. In the reply filed by the Respondents in W.P. (C) 3780/2017 it is pointed out that the Petitioner moved out of the CISF Unit, Hyderabad without informing the Respondents of the change of address. It was only when he informed them of the change of address at Bokaro, Jharkhand that a letter could be issued to him at the given address. Likewise, in reply to W.P.(C) 3781/2017, it was pointed out that this Petitioner again did not inform the Respondents of the change of address.

10. Learned counsel for the Petitioners placed reliance on the decision of this Court in *Inspector Rajendra Singh v. Union of India* 240 2017 DLT 576 wherein under similar circumstances, the option of the Old Pension Scheme was made available to the Petitioners relying on the decision *Shoorvir Singh Negi v. Union of India* (decision dated 21st December 2003 in W.P.(C) 5830/2015). A reference is also made to a communication dated 16th October 2018 issued by the Directorate General, BSF in which it was

communicated that the BSF has decided to implement the decision in *Parmanand Yadav v. Union of India* (supra) and give the benefit of the old pension scheme to all of the similarly situated cases. The criteria on which the benefit of *Parmanand Yadav* was given to other similarly situated persons was three fold:

“a) In both cases, candidates appeared for open competitive examination in the year 2002 & 2003 and their results were announced in the month of Sept 2003 i.e. prior to 01.01.2004 (prior to introducing of NPS), but some successful candidates were called for training in the month of November 2003 i.e. prior to 01.01.2004 and remaining after 01.01.2004 as a result of which the latter were deprived of Old Pension Scheme.

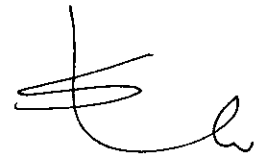
b) Administrative constraints of the department and the training institution resulted in calling some of the successful candidates for training after 01/01/2004.

c) Delay in appointment of second batch candidates is not attributable to these candidates.”

11. The Court finds that the facts in *Parmanand Yadav* (supra) are distinguishable from the above cases for the simple reason that here the delay in the Petitioners being sent for training was attributable to the candidates themselves and not to the Respondents. Whether it is *Parmanand Yadav* or *Rajendra Singh* (supra), the reason for the Petitioners not being able to join the training in time was not attributable to the Petitioners themselves but to the Respondents. The situation is no different in the decision dated 17th September 2015 in W.P. (C) 539/2015 (*Rajiv Ranjan v. Union of India*).

12. Consequently, in the present case, since the delay in each of the Petitioners joining training is on account of the Petitioners themselves and not for any reasons attributable to the Respondents, the benefit extended to the Petitioners in *Parmanand Yadav v. Union of India* (*supra*) cannot be extended to the present Petitioners.

13. The petitions are accordingly dismissed.



S.MURALIDHAR, J.



I.S.MEHTA, J.

MARCH 25, 2019

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