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

+ **W.P.(C) 1051/2016**

**K.V. UTTAMAN & ORS**

..... Petitioners

Through: Mr. A.K. Trivedi and Mr. Naveen  
Kumar, Advocates.

versus

**UNION OF INDIA AND ORS**

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC  
and Mr. T.P. Singh, Advocates for  
UOI.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE TALWANT SINGH**

**ORDER**

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**27.01.2020**

1. The short issue in the present case is regarding the grant of pension to the Additional Deputy Inspector General ('ADIG') of the Border Security Force ('BSF') upon upgradation of the pay-scales to that of the Deputy Inspector General ('DIG') consequent to the 6<sup>th</sup> Central Pay Commissioner ('CPC').

2. The stand taken by the Respondents as expressed in the impugned order dated 28<sup>th</sup> July, 2015 is contained in para 2 of the said communication which reads as under:-

“2. I have been directed to inform that your aforesaid representation has been examined at FHQ and proposal had been submitted to MHA to allow pension/family pension in respect of Addl. DIGs, who had retired before implementation of 6<sup>th</sup> CPC for upgradation of pension for the post of ADIG to DIG so as to equate them with the rank of DIG.”

3. Learned counsel for the Petitioner has placed before the Court a decision dated 11<sup>th</sup> July 2019 of Supreme Court of India in Civil Appeal No. 10857/2019 (*All Manipur Pensioners Association v. State of Manipur*) where after referring to the decision in *D. S. Nakara v. Union of India 1983 1 SCC 305*, the Supreme Court concluded that the classification between the pensioners who retired pre-1996 and post-1996 for the grant of benefit of revision of pension was arbitrary and violative of Article 14 of the Constitution. It accordingly restored the decision of the Single Judge which had granted relief to the pre-1<sup>st</sup> January, 1996 retirees in the matter of grant of pension, at par with those who had retired after that.

4. Learned counsel for the Petitioner has also placed reliance on an office memorandum ('OM') dated 28<sup>th</sup> January, 2013 where in principle it was agreed that the pension would be payable upon the revision of pay-scale under the recommendation of the CPC across the board, irrespective of the date of retirement. The amounts were to be worked out in terms of a 'Concordance table' which is placed as Annexure P-2 to the said OM.

5. In view of the law explained by the Supreme Court in *All Manipur Pensioners Association (supra)* which is a reiteration of the settled legal position as explained in *D.S. Nakara (supra)*, the Court sets aside the impugned order dated 28<sup>th</sup> July, 2015 and directs the Respondents to rework the pension payable to the Petitioners, who are pre-1<sup>st</sup> January, 2006 retirees as ADIGs, by applying the concordance table appended to the OM dated 28<sup>th</sup> January, 2013. The revised Pension Payment Orders be now issued within twelve weeks from today and the arrears of pension be paid within the said

period failing which the Respondent shall be liable to pay simple interest @ 6% per annum on the aforementioned sum for the period of delay.

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

**S. MURALIDHAR, J.**

**TALWANT SINGH, J.**

**JANUARY 27, 2020**

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