

\$~Suppl-45

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

+ **W.P.(C) 971/2021 & CM APPL. 2622/2021**

SI GD ANIL KUMAR Petitioner
Through: Mr.O.P.Agarwal, Advocate.

versus

UOI AND OTHER Respondents
Through: Mr. Alok Singh, Sr. Panel Counsel
with Mr. Gaurav Bhardwaj,
Advocate.
Mr. Vindo Diwakar, CGSC with
Mr. Vishal Kr. Singh, Advocate.

% Date of Decision: 25th January, 2021

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J: (Oral)

W.P. (C) 971/2021

1. Present petition has been filed seeking a number of prayers. However, learned counsel for the petitioner prays that a similar order as passed by a Division Bench in W.P.(C) No.6437/2019 dated 30th May, 2019 as well as WP(C) No. 12811 of 2019 decided on 06th December, 2019

be passed in the present writ petition. He clarifies that neither the judgment and order dated 30th May, 2019 in W.P.(C) No.6437/2019 nor the judgments referred to in the said order have been challenged before the Supreme Court by the respondents.

2. Issue notice.

3. Learned counsel for the respondents accept notice. Learned counsel for the respondents state that in similar matters, notices have been issued by the Supreme Court in the condonation of delay and special leave petitions. They, however, candidly state that there is no stay in the said special leave petitions.

4. It is pertinent to mention that the petitioner has preferred the present writ petition to primarily seek a mandamus to the respondents to grant the benefit of the First and Second financial upgradation under the ACP scheme with effect from completion of 12 years and 24 years and the third MACP on completion of 30 years of service. It is claimed that wherever the second Financial upgradation is granted under the Second MACP, the same shall be granted in the Pay Band of Rs.9300-34800 with Grade Pay of Rs.4200 w.e.f. 01st January, 2006 and wherever 20 years have been completed or the dates mentioned in the prayer clause along with consequential benefits including arrears. The petitioners' claim is based upon the decision of the Supreme Court in the case of **Union of India and Ors. Vs. Balbir Singh Turn & Anr.**, Civil Appeal Diary No.3744/2016 along with other cases decided on 08th December, 2017. The petitioner also place reliance on the decision of the Division Bench of this Court in **Sunil Kumar Tyagi vs. Union of India & Anr.**, W.P. (C) No.3549/2018 decided on 01st May, 2019, **Jaswant Singh v. Union of India.**, WP(C) No.

22 of 2015 decided on 05.01.2015 as well as ***Jai Pal Singh v. Union of India*** decided on 06.09.2013 in WP(C) No. 5539/2015 and ***Indian Ex-Bordermen Movement and Ors. v. Union of India and Ors.*** decided on 03.02.2020 in WP(C) No. 7447/2019.

5. As admittedly there is no interim order passed by the Supreme Court in any of the special leave petitions filed by the Union of India in similar matters, we dispose of the present writ petition in similar terms as passed in W.P.(C) No.6437/2019 i.e. a direction to the respondents to consider the petitioners' claim in the light of the judgments in ***Union of India and Ors. Vs. Balbir Singh Turn & Anr. (supra)*** and ***Sunil Kumar Tyagi vs. Union of India & Anr (supra)*** as well as ***Union of India & Ors. vs. M.V. Mohanan Nair, (2020) 5 SCC 421*** as well as ***Jaswant Singh v. Union of India (supra)*** decided on 05.01.2015 ***Jai Pal Singh v. Union of India (supra)*** decided on 06.09.2013 in WP(C) No. 5539/2015 and ***Indian Ex-Bordermen Movement (supra)*** decided on 03.02.2020 in WP(C) No. 7447/2019 and to dispose of the representation of the petitioner positively within twelve weeks from today. It is clarified that in the event the Supreme Court varies or set asides the order passed by the Division Bench in ***Sunil Kumar Tyagi vs. Union of India & Anr (supra)*** and/or any other similar matter, then the present order shall abide by the order(s) of the Apex Court.

6. With the aforesaid direction, the present writ petition along with pending application stand disposed of.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

ASHA MENON, J

JANUARY 25, 2021
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