

\$~Suppl.-20

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

+ W.P. (C) 4612/2021, CM APPL. 14099/2021

VINAY MOHAN SHARMAPetitioner

Through: Mr. K.K. Sharma, Advocate

Versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Nirvikar Verma, Advocate with
Mr. Mohit Bharadwaj, Advocate for
UOI.

% Date of Decision: 15th April, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

The petition has been heard by way of video conferencing.

WP(C) 4612/2021

1. Present writ petition has been filed for issuance of directions to the respondent Nos. 2 to 5 to regularize the intervening period from 01st March, 2019 to 11th October, 2019 (i.e. the date of the petitioner's superannuation upon attaining the age of 57 years to the date of his re-joining) as "duty" along with all other consequential benefits.

2. In the present writ petition it has been averred that the petitioner had superannuated from his post in CRPF upon attaining the age of 57 years on 28th February, 2019 and then subsequently allowed to rejoin vide letter dated

21st September, 2019 in view of the judgment of this court in *Dev Sharma vs. ITBP and Anr., WP(C) 1951/2012*.

3. However, in the rejoining letter, it has been stated that the petitioner is not entitled to any pay for the intervening period on the principle of "no work no pay" and intervening period will be treated as non-duty under Fundamental Rule-54 [FR-54].

4. In the writ petition it has also been averred that FR-54 is not applicable to the present case as it relates only to reinstatement or regularization of intervening period of a Government employee who has either been dismissed, removed, compulsorily retired or placed under suspension, whereas the Petitioner had only proceeded on superannuation as directed.

5. A perusal of the paper book reveals that admittedly the petitioner has been communicated vide selo message dated 21st September, 2020 [ANNEXURE-L] that his request regarding eligibility of pay and allowances for intervening period on rejoining duty had been taken up with MHA and decision on the issue will be intimated on receipt of clarification from MHA.

6. Keeping in view the aforesaid the Ministry of Home Affairs is directed to take a decision on the said issue as expeditiously as possible but not later than twelve weeks.

7. This Court clarifies that it has not expressed any opinion on the merits of the controversy. The Ministry of Home Affairs shall take a decision on its own merits in accordance with the law, without being influenced by any observation made by this Court.

8. Accordingly, present writ petition and application stand disposed of.
9. 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

APRIL 15, 2021

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