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W.P.No.20485 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.20485 of 2021

S.Jeeva

Vs.

... Petitioner

- 1.Union of India,
Rep. by The Director General of Police CRPF,
C.G.O Complex, Lodhi Road,
New Delhi – 110 003.
- 2.The Inspector General of Police S/S.
CRPF No.10,
C.Kayathri Hills,
New MP MLA Colony,
Jublee Hills,
Hyderabad – 500 033.
- 3.The Deputy Inspector General of Police
GC CRPF,
Chattisgarh Police Hqs, Raipur,
Chattisgarh – 492 001.
- 4.The Deputy Inspector General of Police,
GC CRPF,
Avadi, Chennai – 600 065.
- 5.The Commandant,
229 BN CRPF,
Bijapur,



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Chattisgarh – 494 444.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents for re-fixation of pension and payment of differential/arrears of retirement benefits including pension and gratuity on the basis of enhanced retirement age of 60 years and also to direct the respondent for payment of differential arrears of retirement benefits including pension and gratuity on the basis of enhanced retirement of 60 years.

For Petitioner : A.Farhath Begum

For Respondents : M/s.S.P.Arthi,
Senior Panel Counsel

ORDER

This writ petition has been filed by the petitioner seeking direction to the respondents for re-fixation of pension and payment of differential/arrears of retirement benefits including pension and gratuity on the basis of enhanced retirement age of 60 years and also to direct the respondent for payment of differential arrears of retirement benefits including pension and gratuity on the basis of enhanced retirement of 60 years.

2. The case of the petitioner is that the petitioner enlisted in Central Reserve Police Force on 01.06.1977. After completing 37 years of service, the petitioner got superannuated from service on 30.06.2014. This being so, the petitioner has issued a legal notice to the respondents on 25.10.2019 in



connection with extending pensionary benefits considering his retirement age as 60 years. Subsequently, the respondents through their reply informed that as per guidelines issued by MHA vide their order F.N.45020/1/2019/Legal-1 dated 19.08.2019 and DIG (Adm) Dte, CRPF, New Delhi letter No.R.IX-1/2019-Adm.III(Rules) dated 18.09.2019, the officers/officials who proceeded on superannuation with effect from 31.01.2019 to 19.08.2019 and opted to get benefit of fitment of pension on completion of age of 60 years are only eligible for getting benefit of fitment of pension and the officers/officials, who retired from service prior to 31.01.2019 are neither entitled for re-instatement into service nor for getting benefit of pension on completion of 60 years and they will remain governed by the age of 57 years of retirement as per Rule 43(a) of CRPF Rules, 1955. Since the petitioner proceeded on superannuation before 31.01.2019, he is not eligible to get benefit accordingly.

3. This being so, one N.Murugan, who is a colleague of the petitioner and superannuated on 30.04.2018 has sent a legal notice to the respondents seeking the similar relief. Later, he received a reply from Deputy General of



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Police, Group Centre, CRPF Avadi vide P-III-164/2017-G-AVD-Pension

dated 12.03.2021 that his case falls under the provision in compliance to the common order dated 19.12.2019 of Hon'ble High Court of Delhi in WP(C) Nos.11895, 11332, 12323 of 2019, Ministry of Home Affairs vide their Order No.F.N.45020/1/2019-Legal-1 dated 17.12.2020 read with order dated 19.08.2019 has conveyed the benefits of enhancement or age of retirement from 57 to 60 years. However, the petitioner has not been considered for the said benefits. Hence, he has come forward with the present writ petition.

4. When the matter was taken up for hearing learned counsel for the petitioner drew the attention of this Court to paragraph Nos.70 & 72 of the order passed by the Delhi High Court in the case of ***Dev Sharma Vs. Indo Tibetan Border Police & Another in W.P.(C).No.1951 of 2012 dated 31.01.2019***. For better appreciation, the relevant paragraphs are extracted hereunder:

“70. The Court recognises that there are bound to be implications both organisationally and financially as a result of the implementation of this decision. The respondents shall, unless this judgment is further challenged and subject to any interim order in such proceedings, implement it across the



board to all members of the CAPFs without insisting on each of them approaching the Court for identical relief. For that matter, even though the members of the SSB have not yet approached this Court, if they are identically placed as these petitioners, it should be implemented for them as well”.

72. The Court clarifies that this judgment will not have the effect of reinstatement of the petitioners who have already retired. In view of the principle of 'no work, no pay', it will also not have the effect of their being entitled to any arrears of pay for any further period beyond their retirement. However, for the purposes of calculation of retiral benefits, including pension and gratuity, the differential period (in the event of enhancement of retirement age) will be added to period of service actually rendered by each of them. In other words, their notional date of retirement would be arrived at by adding the differential years to their actual date of retirement. On such calculation they would be entitled to the arrears of retirement benefits after adjusting the amount already paid.”

5. Hence, as per the aforesaid judgment, the petitioner is entitled to the benefit of re-fixation of pension and payment of differential/arrears of retirement benefits including pension and gratuity on the basis of enhanced retirement age of 60 years.



6. Learned Central Government Standing Counsel appearing for the respondents submitted that the petitioner is not entitled to re-fixation of pension scheme as the judgment of the Hon'ble High Court of Delhi would apply only to personnel, who have not attained the age of 60 years as on 31.01.2019 and the same had been clarified by the Division Bench judgment of Hon'ble Delhi High Court in the case of ***Bharat Singh & others Vs. Union of India & Others in W.P.(C).No.13195 of 2019 dated 19.12.2019.***

For better appreciation, the relevant paragraph is extracted hereunder:

“10. It requires to be clarified that the benefit of paragraph 72 of the judgment of this Court in Dev Sharma (supra) will be available only to those who had not crossed 60 years of age as on 31st January, 2019. It is further clarified that the present order will not disturb the benefit already extended in terms of para 72 of that judgment and in terms of Para 2 (c) of the order dated 19th August 2019 to any of the Petitioners in the Dev Sharma batch, who may have crossed the age of 60 years as on 31st January 2019.”

In view of the above, the petitioner is not entitled to re-fixation of pension scheme. Hence, he prayed for dismissal of this writ petition.

7. Heard the learned counsel on either side and perused the materials



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available on record.

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8. In view of the order passed by the Division Bench of the Hon'ble Delhi High Court in the case of ***Bharat Singh & others Vs. Union of India & Others***, the benefit would be available to all those in CAPF, who had retired prior to 31.01.2019 provided that they had not crossed the age of 60 years as on 31.01.2019. In the present case on hand, the petitioner proceeded on superannuation from service at the age of 57 on 31.05.2014 and has already attained the age of 60 years on 20.05.2017, much prior to 31.01.2019. Hence, he is not eligible for any claim for re-fixation of pension and payment of differential arrears of retirement benefits including pension and gratuity on the basis of enhanced retirement age of 60 years and the same is applicable only to personnel who retired at the age of 57 on or after 01.02.2016 and not prior to the said date.

9. In the result, this writ petition stands dismissed. No costs.

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Index : Yes/No
Speaking Order : Yes/No

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J.SATHYA NARAYANA PRASAD,J.

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To:

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