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

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Date of decision: 16.03.2023

+ W.P.(C) 7650/2022

MD. SARDESH ALI

..... Petitioner

Through: Mr.Naushad Alam & Mr.Sandeep Kr.
Pathak, Advs.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Ms.Anju Gupta, Mr.Dipak Tanwar,
Advs.
Mr. Hemendra Singh, Dy.
Commandant (Law) BSF

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL.12712/2023

1. Present application has been filed on behalf of respondent no.1 seeking condonation of delay of 81 days in filing the counter affidavit.
2. In view of the reasons stated in the application, we hereby condone the delay of 81 days in filing the counter affidavit.
3. Application is disposed of.

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4. Consequently, counter affidavit on behalf of respondent no.2 is taken

on record.

5. With the consent of counsel for the parties, present petition is taken up today for disposal.

6. Counsel for the petitioner has drawn the attention of this Court to para 4 of the counter affidavit filed by the respondents which is reproduced as under:

“4. Thereafter, again a Departmental Screening Committee was detailed by SHQ BSF KNR vide Order No. Comn/1579/ACP/SHQ(K)/2022/20643-46 dated 21 Nov, 2022 for grant of 1st financial upgradation under ACP Scheme to the petitioner. The detailed DSC after sympathetically examining the case of the petitioner have recommended for grant of 1st financial upgradation under ACP scheme w.e.f. 01.04.2001 in the pay scale of Rs.5500-175-9000 despite of non-availability of his Service Record and APAR file, being a matter of welfare of the retired BSF person. Accordingly, the proceedings drawn by the DSC on 26 Nov, 2022 have been approved by the Competent Authority on 28 Nov, 2022. Subsequently, the pay of petitioner on grant of 1st financial upgradation under ACP scheme has been re-fixed w.e.f. 01.04.2001 in the pay scale of Rs.5500-175-9000/- (pre-revised) vide SHQ BSF KNR Order No.Comn/1579/ACP/SHQ(K)/2022/21127-30 dated 30 Nov, 2022 and case for revision of pension of the petitioner has also been forwarded to PAD BSF, New Delhi vide SHQ BSF KNR Letter No. Comn/SHQ(K)/Rev Pen Ex-ASI(RM)-MSA/2022/21140 dated 01 Dec, 2022. Subsequently, the pension has been passed and authority for revision of pension has been issued by PAD (PAO-EAST) BSF New Delhi dated Feb, 2023. Accordingly, revision of pension in respect of Shri Md Sardesh Ali, holder of PPO No. 240550238140, under 5th CPC, 6th CPC and 7th CPC has been fixed as under:-

a. Under 5th CPC (Revised Pay Rule 1997)

- (i) Revised pension - Rs.2,820/-
 - (ii) Revised Pension Commuted - Rs.818/-
 - (iii) Revised reduced pension after - Rs.2,002/-
- Commutation w.e.f. 01.12.2002.

b. Under 6th CPC (Order No.38/37/08-P&PW(A) dated 03.07.2015)

- (i) Revised pension - Rs.7,380/-
 - (ii) Revised Pension Commuted - Rs.818/-
 - (iii) Revised reduced pension after - Rs.6,562/-
- Commutation w.e.f. 01.01.2006.

c. Under 7th CPC

- (i) Revised pension - Rs.19,350/-
 - (ii) Revised Pension Commuted - Rs.818/-
 - (iii) Revised reduced pension after - Rs.18,532/-
- Commutation w.e.f. 30.11.2017.
- (iv) Revised reduced pension payable w.e.f. - Rs.19,350/-
- 01.12.2017.

Besides above, petitioner is also entitled for grant of pay arrear for the period from date of grant of 1st financial upgradation under ACP scheme i.e. w.e.f. 01.04.2001 to the date of retirement i.e. upto 30.11.2002 for Rs.18,031/- (Rupees eighteen thousand thirty one) only has already been claimed by this HQ vide Bill No. 912 dated 27.12.2022 and remitted to the petitioner on 11.01.2023.

The petitioner is also entitled for grant of following pensionary benefits which will be paid by the pension disbursing bank :-

(a) Amount on account of pension arrear from the date of retirement i.e. w.e.f. 01.12.2002 to till the date of implementation of revised pension.

(b) Additional amount of Death/Retirement Gratuity for Rs.13,851/-(Rupees thirteen thousand eight hundred fifty one) only.”

7. In view of above, since the relief sought by the petitioner in the present petition is being satisfied, therefore, we hereby dispose of the present petition by giving direction to the respondents to pay the arrears to the petitioner within two months from today.

8. Petition is disposed of.

9. The date already fixed i.e. 18.04.2023 stands cancelled.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 16, 2023/ab