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

+ W.P.(C) 1022/2023

AJIT SINGH & ORS.Petitioners

Through: Mr. Arun Dhiman, Adv.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Raghwendra Tiwari, CGSPC
with Ms. Mamta Tiwari, Adv.

37

+ W.P.(C) 1048/2023

RAJENDRA PRASAD & ORS.Petitioners

Through: Mr. Arun Dhiman, Adv.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Tanveer Ahmed Ansari, SPC
with Mr. Hilal Haider, Mr. Butoh
Khan and Ms. Amreen Rizvi, Adv.

38

+ W.P.(C) 1173/2023

SATISH KUMAR RUSTAGI AND ORS.Petitioners

Through: Mr. Ankur Chhibber and Mr.
Anshuman Mehrotra, Adv.

versus

UNION OF INDIA AND ORS.Respondents

Through: Ms. Nidhi Banga, SPC with Mr.
Siddhant Gupta and Mr. Nishant
Kumar, Adv.

39

+ W.P.(C) 1387/2023

RAJENDRA PRASAD NAUTIYAL AND ORS.Petitioners

Through: Mr. Ankur Chhibber and Mr.
Anshuman Mehrotra, Adv.

versus

UNION OF INDIA AND ORS.Respondents

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Abhigyan Siddhant, Adv. with
Mr. Devinder Singh, DC(JAG).



40

+ W.P.(C) 1424/2023
SUNIL KUMAR AND ORSPetitioners
Through: Mr. Ankur Chhibber and Mr.
Anshuman Mehrotra, Advs.
versus
UNION OF INDIA AND ORSRespondents
Through: Mr. Devender Singh, DC (JAG),
ITBP.

41

+ W.P.(C) 1814/2023
PREM SINGH M.S. AND ORSPetitioners
Through: Mr. Ankur Chhibber and Mr.
Anshuman Mehrotra, Advs.
versus
UNION OF INDIA AND ORSRespondents
Through:

42

+ W.P.(C) 2265/2023
SHAILESH KUMAR & ORS.Petitioners
Through: Mr. Arun Dhiman, Adv.
versus
UNION OF INDIA & ORS.Respondents
Through:

43

+ W.P.(C) 340/2024
PRADUEMAN DEV AND ORSPetitioners
Through: Mr. Ankur Chhibber, Advocate.
versus
UNION OF INDIA AND ORSRespondents
Through: Mr. Ranvir Singh, SPC with Mr.
Rishav Dubey, Adv. for UOI.

44

+ W.P.(C) 348/2024, CM APPL. 1583/2024
ANOOP SINGHPetitioner
Through: Mr. Ankur Chhibber, Advocate.



versus
UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Tanveer Ahmed Ansari, SPC
with Mr. Hilal Haider, Mr. Butoh
Khan and Ms. Amreen Rizvi, Adv.
Ms. Archana Gaur and Mr.
Kamaldeep, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER
14.08.2024

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CM APPL. 42741/2023 in W.P.(C) 1173/2023

1. The present application under Section 151 CPC has been filed by the respondents seeking condonation of 96 days delay in filing counter affidavit.
2. For the reasons stated in the application, the delay of 96 days in filing the counter affidavit is condoned.
3. The application stands disposed of.

W.P.(C) 1022/2023, W.P.(C) 1048/2023, W.P.(C) 1173/2023, W.P.(C) 1387/2023, W.P.(C) 1424/2023, W.P.(C) 1814/2023, W.P.(C) 2265/2023, W.P.(C) 340/2024, W.P.(C) 348/2024

4. The present batch of petitions moved under Article 226 of the Constitution of India, filed by serving as well as retired employees of different Central Armed Police Forces (CAPF), raise a common issue as to whether the revised pay as per the replacement recommended by the 5th Central Pay Commission (CPC) is required to be extended to the petitioners w.e.f. 01.01.1996 or from 10.08.1987, the date on which the respondents took a decision to implement the replacement pay scale as per the



recommendations of the 5th CPC. It is the petitioners' claim that they are entitled to be granted revised pay scales as per the recommendations of the 5th CPC from 01.01.1996, the date the said recommendations came into effect.

5. At the very outset, we may note that some of the petitioners belonging to Central Reserve Police Force (CRPF) and Indo-Tibetan Border Police (ITBP) had earlier approached this Court by way of W.P.(C) 862/2021 and W.P.(C) 6224/2021 along with W.P.(C) 11259/2021 & W.P.(C) 6359/2021 seeking the same relief. The said writ petitions were disposed of by this Court on 13.07.2022 with directions to the respondent no.1, Ministry of Home Affairs (MHA) to take a final decision on the proposals submitted by the CRPF and ITBP for the relief claimed in the said writ petitions. As the respondent no.1 vide its order dated 29.11.2022 rejected the proposals submitted by the CRPF and ITBP, the present petitions came to be filed.

6. Learned counsel for the petitioners submits that the 5th CPC setup by the Government of India submitted its report on 30.01.1997 carving out the structure of emoluments, allowances, conditions of service and retiral benefits of Central Government employees including personnel belonging to the Armed Forces. These recommendations of the 5th CPC were accepted by the Central Government and consequently vide its resolution no. G.I., MF 50(1) /IC/97, the Ministry of Finance directed rationalization of the rank structure and pay scale of Non-Gazetted Officers cadre of the Central Police Organizations (CPO) and directed that the same be brought at par with Inspectors/Sub-Inspectors/Constables of the Delhi Police.

7. Consequently, vide order dated 10.10.1997, the pre-revised pay scale and replacement pay scale in respect of said Non-Gazette Officers Cadre of



CPOs (Central Police Organizations) were rationalized and it was directed that the revised pay scale will be effective from 01.01.1996 and would be regulated in accordance with the provisions of Central Civil Service (Revised Pay) Rules, 1997. Accordingly, the revised pay on rationalization of rank structure of officers of the CPOs (now known as CAPF) was done at par with their counterparts in the Delhi Police. However, the said benefits were extended to them only w.e.f. 10.10.1997, compelling the petitioners to approach this Court.

8. Learned counsel for the said petitioners submits that while dealing with a similar claim of a BSF Personnel, the Punjab and Haryana High Court vide it's detailed order dated 14.11.2022 passed in ***Civil Writ Petition No. 17711/2000*** titled as ***Jagmal Singh vs Union of India & Ors.***, had issued directions that the upgraded pay scale as per the recommendations of the 5th CPC be extended to the petitioner therein w.e.f. 01.01.1996, and not from 10.10.1997, the date on which the respondents had taken a decision to accept the replacement scale. The said decision was unsuccessfully assailed before the Apex Court. He, therefore, contends that the respondents are bound to extend the said benefit to all similarly situated Force personnel.

9. On the other hand, learned counsel for the respondents while not denying that the decision in ***Jagmal Singh (supra)*** is applicable on all fours to the facts of the present case, submits that the respondent no.1 has taken a considered decision to confine the benefits granted by the Punjab and Haryana High Court to the said petitioner alone. He is, however, not in position to deny that as urged by the petitioners, the benefit in terms of the decision in ***Jagmal Singh (supra)*** has been extended to similarly placed Force personnel in the Delhi Police, SSB and postal department of the



Central Government. His only contention, therefore, appears to be that once a considered decision has been taken by the respondents to restrict the benefits of *Jagmal Singh (supra)* to the petitioner therein, the present petitions ought to be dismissed.

10. Having considered the submissions of learned counsel for the parties, we are of the view that once the Punjab and Haryana High Court has, in *Jagmal Singh (supra)*, directed that the benefits of the replacement scale as per recommendations of the 5th CPC ought to be granted to a similar placed BSF personnel w.e.f. 01.01.1996, the respondents cannot refuse to extend the benefits to all similarly placed persons of other CAPFs. No justification has been provided by the respondents for restricting the benefits to the petitioner in the aforesaid decision. Furthermore, the benefits in terms of these directions, as admitted by the learned counsel for the respondents, have also been extended to Force personnel in another CAPF. The petitioners are therefore, justified in claiming that the benefits in terms of the recommendations of the 5th CPC are required to be extended to them from 01.01.1996, the date from which said recommendations have been made effective and also subsequently incorporated in the CCS (revised pay) Rules, 1997.

11. The writ petitions are, accordingly, allowed by directing the respondents to grant the benefit of the replacement scales as per the recommendations of the 5th CPC to the petitioners w.e.f. 01.01.1996 as against 10.10.1997. However, taking into account the delay on the part of the petitioners in approaching this Court, we direct that though the notional fixation of pay replacement scale be granted to the petitioners w.e.f. 01.01.1996, any consequential arrears on this count will be restricted to a



period of three years prior to the date of filing of the respective writ petitions. The exercise in terms of this order will be carried out within a period of three months.

12. The writ petitions are, accordingly, disposed of in the above terms.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 14, 2024
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