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

+ **W.P.(C) 11990/2024**

VINOD KUMAR

.....Petitioner

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

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Piyush Gupta, CGSC with Mr.
Prateek Gupta, Ms. Uma Tripathi and
Mr. Mahir Gupta, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

30.08.2024

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CM APPL. 49885/2024—Exp.

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. By way of the present petition under Article 226 of the Constitution of India, the petitioner, who is serving in the Border Security Force (BSF) as a Deputy Commandant, has approached this Court seeking the following reliefs:

“(i) Issue a writ of certiorari for quashing the order dated 02.03.2020 issued by the respondents to the extent where it denies the benefits of Non-Functional Financial Upgradation in Junior Administrative Grade level to the Petitioner w.e.f 01.07.2013; and

(ii) Issue a writ of mandamus directing respondents to grant Non-Functional Financial Upgradation at Junior Administrative Grade level i.e. Grade Pay-7600 w.e.f 01.07.2013 to the Petitioner in accordance with subject Department of Personnel and Training/Ministry of Home Affairs Office Memorandums and in accordance with the law laid down by this Hon'ble Court in order



dated 25.07.2024 in WP(C) No.10174/2024 and vide judgment dated 08.08.2024 in WP(C) in 15759/2022 and along with interest, arrears payable and all consequential benefits; and
(iii) Pass any such orders as the Hon 'ble Court may deem fit in the light of above mentioned facts and circumstances of the case."

4. Learned counsel for the petitioner submits that the petitioner, who fulfils all other eligibility criteria for promotion as also for grant of Non-Functional Financial Upgradation (NFFU), has been denied the said benefit w.e.f. 01.07.2013 only on the premise that he did not have the required two years' Mandatory Field Service (MFS) in the rank of Deputy Commandant.

5. He submits that once it is an admitted position that the petitioner was never posted to any duty Battalion during the relevant period and he, therefore, could not be held responsible for not completing the MFS and cannot be penalised for the same. Furthermore, the Director General of the BSF/respondent no. 3 has, vide his order dated 25.08.2021, granted relaxation to the petitioner qua the requirement of MFS for grant of NFFU. He, therefore, contends that it was incumbent upon respondent no. 1 to accept the said relaxation and grant NFFU to the petitioner from the due date.

6. This issue, he submits, already stands decided in favour of the petitioner by the decisions of this Court in WP(C) No. 15759/2022 titled as "**Pawan Kumar vs. Union of India through Secretary & Anr.**", decided on 08.08.2024 and in WP(C) No. 10174/2024 titled as "**Tribhuwan Pratap Singh and Ors. vs. Union of India and Ors.**", decided on 25.07.2024.

7. Issue notice.

8. Mr. Piyush Gupta, learned counsel accepts notice on behalf of the respondents and is not in a position to deny that the respondent no. 3 has already granted relaxation qua the requirement of MFS in favour of the



petitioner for the grant of NFFU.

9. He is also not in a position to deny that the facts of the present case are identical to that in ***Pawan Kumar (supra)***, where this Court has directed reconsideration of the petitioner's case for grant of NFFU, by accepting the relaxation granted by respondent no. 3.

10. In these circumstances, when the respondents do not deny that the requisite relaxation in MFS was already granted by the respondent no. 3, we are of the view that instead of keeping the present petition pending, it would be appropriate if the respondents are directed to re-consider the petitioner's case for grant of NFFU from the due date i.e. 01.07.2013 in accordance with the decisions of this Court in ***Pawan Kumar (supra)*** and ***Tribhuwan Pratap Singh (supra)***.

11. We, accordingly, dispose of this petition by directing the respondents to re-consider the petitioner's case for grant of NFFU from the due date i.e. 01.07.2013 in light of the relaxation granted by respondent no. 3 as also the decisions of this Court in ***Pawan Kumar (supra)*** and ***Tribhuwan Pratap Singh (supra)***.

12. This exercise, in terms of this order, will be carried out within a period of twelve weeks. In case, the petitioner is found eligible for grant of NFFU by reconsideration of his case in terms of this order, all consequential arrears will be released in his favour within four weeks, failing which the said amount will bear interest @ 6% p.a.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 30, 2024/ss