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

+ **W.P.(C) 5750/2017**

JAI KUMAR

.....Petitioner

Through: Mr. M.Y. Khan, Adv.

versus

THE GOVERNMENT OF NCT OF DELHI & ANR

.....Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik, Ms.
Aliza Alam & Mr. Mohnish
Sehrawat, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

16.08.2024

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1. The present writ petition preferred under Article 226 of the Constitution of India seeks the following reliefs:

- a. Issue a writ of Mandamus or any other appropriate writ, order or directions to the respondents to re-fix his Basic Pay DA and other benefits of the post after taking into account his number of completed year of service as combatant clerks and by allowing him one increment at 3% from minimum for each completed year of service as Combatant Clerk, by ignoring the full pension as per Order 4 (d) (i) of CCS (fixation of Pay of re-employed*



pensioners) Orders, 1986, as followed in the case of similarly employed combatant clerk with the respondents.

b. Direct the respondents to pay all the difference of arrears of pay and other attendance benefits/allowances attached to the said post, since the date of his joining to the respondents and till date.

2. At the outset, we have put to learned counsel for the parties as to why the petitioner should not be relegated to the Central Administrative Tribunal (Tribunal) which has the necessary jurisdiction under the Administrative Tribunals Act to deal with the prayers sought in the present petition.

3. Learned counsel for the respondents concedes that the subject matter of the present petitioner falls within the jurisdiction of the Central Administrative Tribunal.

4. Learned counsel for the petitioner, however, submits that since pleadings are complete and the matter has remained pending before this Court for almost the last 7 years with written submissions having already been filed by the petitioner, the petition be decided by this Court. We are, however, unable to accept this plea of the respondents as we are of the view that if we were to decide the present petition, we would be depriving one of the parties of their right to seek judicial review before this Court of any order as may be passed by the Tribunal in respect of the claims made by the petitioner.

5. However, taking into account that the present petition has remained pending before this Court for the last many years, we are of the view that, instead of directing the petitioner to now file a fresh Original Application (OA) before the Tribunal, it will be in the interest of justice that the present



petition itself is transferred to the Tribunal. We, accordingly, transfer the present petition to the Tribunal, the Registry is directed to immediately transmit the present case along with all pleadings to the Tribunal. The matter would be listed before the learned Registrar of the Tribunal on 03.09.2024 for being placed before the appropriate Bench of the Tribunal.

6. Further, taking into account that the matter has remained pending before this Court for almost 7 years, we request the learned Tribunal to decide the same as expeditiously as possible and preferably within a period of six months.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 16, 2024
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