



2025:DHC:2503-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 09.04.2025***

+ W.P.(C) 4469/2025
UNION OF INDIA AND ORSPetitioners
Through: Mr.Ashish K. Dixit, CGSC with
Mr.Shivam Tiwari, Ms.Urmila
Sharma, Ms.Veeni Kakkar &
Ms.Deepika Kalra, Advs.

versus

SURESH KUMAR AZADRespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)**CM APPL. 20637/2025 & 20639/2025 (Exemptions)**

1. Allowed, subject to all just exceptions.

W.P.(C) 4469/2025 & CM APPL. 20638/2025

2. This petition has been filed challenging the Order dated 23.08.2024, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'learned Tribunal') in Original Application ('O.A.') No. 147/2018, titled ***Suresh Kumar vs. Union of India & Ors.***, allowing the said O.A. filed by the respondent herein, with the following directions:



“8. In view of the above peculiar facts and circumstance, we observe that the applicant is entitled to the benefit of para 2 of the Office Order dated 31.10.2008. Accordingly, we allow the present Original Application. The impugned order date 07.11.2017 is quashed and set aside. Competent Authority amongst the respondents are directed to refix the pay and release the arrears of pension admissible as well as other retiral benefits to the applicant within a period of sixty days from the date of receipt of a certified copy of this Order.”

3. As a brief background of the facts, the petitioners, taking into account the difficult working conditions, issued a directive dated 04.09.1995, granting three advance increments as incentives to the officers (up to and including those in the Junior Administrative Grade (‘JAG’) category) posted on the Udhampur-Srinagar-Baramulla Rail Link (‘USBRL’) Project.
4. By an Office Order of the Railway Board dated 31.10.2008, an offer was made to the officers retiring from the USBRL Project that the advance incentive increments shall be treated as a part of their emoluments last drawn salary for the purposes of calculating the pension, family pension, death-cum-retirement gratuity and leave encashment.
5. The respondent superannuated on 31.05.2013, while being posted at Dy. FA&CAO/C/JAT on the USBRL Project. Accordingly, his pension was fixed by taking into account the three advance incentive increments, in accordance with the Office Order dated 31.10.2008.
6. The said Office Order dated 31.10.2008 was withdrawn on



12.06.2014, whereby a uniform 9% incentive allowances on Basic Pay + Grade Pay + DA was sanctioned for all officers posted at Jammu, Udhampur and Katra, with effect from 01.04.2012. Clause (iii) of the said Office Order stated that the incentive “*will not be reckoned for increment, pay fixation and settlement dues*”.

7. The respondent was promoted to the Selection Grade (‘SG’) in Indian Railway Accounts Service (IRAS) with consequential benefits, retrospectively with effect from 01.01.2013, by an Office Order dated 25.08.2017, that is, post his superannuation.

8. As a revision of his pension was required due to the retrospective promotion granted to the respondent, a revised Pension Payment Order (in short, ‘PPO’) dated 27.09.2017 was issued, wherein the three incentive increments, which were earlier taken into account for determining his last drawn pay, were excluded by relying upon the Office Order dated 12.06.2014.

9. The respondent made a representation against the same, however, the same was rejected. Subsequently, the respondent filed another representation before the Secretary, Railway Board, but again, to no avail, forcing the respondent to approach the learned Tribunal by way of the above-mentioned O.A.

10. As noted hereinabove, the learned Tribunal has allowed the said O.A. by the above-mentioned directions, placing reliance on its earlier decision dated 02.03.2017 passed in O.A. No. 060/00466/2016, titled ***Daljit Singh vs. Union of India & Ors.*** Further, a review petition filed by the petitioners against the Impugned Order, being R.A. No. 102/2024, was dismissed by the learned Tribunal, *vide* its Order dated



13.11.2024, stating that there was no error apparent in the same.

11. Aggrieved of the said orders, the petitioners have filed the present petition.

12. The learned counsel for the petitioners submits that as a retrospective promotion has been granted to the respondent by the Office Order dated 25.08.2017, that is, post the revision of the policy by the Office Order dated 12.06.2014, the revised PPO was issued in accordance with the revised policy of 12.06.2014, without taking into account the three advance increments that were otherwise earned by the respondent.

13. He further submits that once the respondent is promoted to the post of SG, he is no longer in the post of JAG and, therefore, not entitled to the three advance increments.

14. We are unable to accept the submissions made by the learned counsel for the petitioners.

15. Admittedly, the respondent had superannuated on 31.05.2013, that is, prior to the revised policy dated 12.06.2014 being promulgated. He was appointed to the USBRL Project specifically in terms of the directive dated 04.09.1995, which provided for three advance increments as an incentive to the officers up to and including those in the JAG category posted on the USBRL Project. In terms of the Office Order dated 31.10.2008, on his superannuation, his pension order was also issued prior to the revised policy coming into force, and taking into account the three advance increments earned by him. The revised policy, therefore, cannot be made applicable to the respondent. The revised policy had no retrospective operation, and



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cannot even otherwise take away the rights vested in the respondent prior to its promulgation.

16. As far as the retrospective promotion granted to the respondent to the SG is concerned, the same also would not disentitle the respondent to the grant of the incentive in terms of the directive dated 04.09.1995, or it being considered while determining the last drawn pay of the respondent for his retiral benefits in terms of the Office Order dated 31.10.2008, as at the time of his superannuation from the USBRL Project, he was entitled to the same. Subsequent promotion, with retrospective effect, will also not denude the respondent of this condition of service, which was applicable to the respondent at the time of his superannuation.

17. Accordingly, we find no merit in the present petition. The same is dismissed. The pending application also stands disposed of as having been rendered infructuous.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 9, 2025/rv/ik

Click here to check corrigendum, if any