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

+ **W.P.(C) 12639/2019**

KRISHAN KUMAR & ANR

.....Petitioners

Through: Mr. Nikhil Bhardwaj, Advocate

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Rajesh Kumar, SPC with
Ms.Ojaswini Jain, Adv.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

ORDER

13.10.2025

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1. The present writ petition has been filed by the Petitioners with the following prayers:-

“i) Issue an appropriate writ, order or directions to respondents to grant the arrears of revised allowances of HRA, SDA, TPT etc pursuant to grant of 1st ACP w.e.f. 07.09.2005 and 05.08.2000 to Petitioners No.1&2 year wise with interest @ 12% per annum for the period 07.09.2005 and 05.08.2000 onwards till date of payment.

ii) Quash and set aside the impugned rejection order dated 01.03.2018;

iii) Pass such further and other orders and directions as this Hon'ble Court may deem fit and proper.”

2. The facts of the case reveal that the Petitioners are working on the



post of Inspector in the ITBP. It is stated that Petitioners No.1 and 2 were granted first financial upgradation under the Assured Career Progression Scheme on 07.09.2005 and 05.08.2000 respectively.

3. Assured Career Progression Scheme (ACP Scheme) was brought into force by the Government of India in August, 1999 for grant of two financial up-gradation to the next higher grade in accordance with the existing hierarchy in promotion in a cadre of the post on completion of 12 years and 24 years of regular service, subject to fulfillment of the promotional norms, i.e., bench-mark, departmental examination or seniority-cum-fitness as the case may be.

4. It is stated that despite grant of 1st financial upgradation to Petitioners No.1 and 2 under the ACP Scheme on 07.09.2005 and 05.08.2000 respectively, they have not been paid arrears of revised allowances of House Rent Allowance (HRA), Special Duty Allowance (SDA) and the Transport Allowance (TPT).

5. It is stated that the Petitioners made various representations to the department, however, *vide* Order dated 01.03.2018, the department rejected the representation of the Petitioners for grant of arrears of revised allowances of HRA, SDA, TPT. It is this Order which is under challenge in the present writ petition.

6. Learned Counsel for the Petitioners states that the grant of benefit under the ACP Scheme would include in its ambit the House Rent Allowance (HRA), Special Duty Allowance (SDA) and the Transport Allowance (TPT). He states that the issue is no longer *res integra* inasmuch as the matter is squarely covered by the Order dated 03.07.2015 passed by a Coordinate Bench of this Court in W.P.(C) 7583/2011 titled as Bhagat Ram



& Ors. v. Union of India & Ors. The relevant portion of the said Order reads as under:-

“It is apparent from the record that the ACP benefits were applicable to all employees within the ITBP w.e.f. 09.08.1999. No doubt that order dated 20.08.1999 cautioned that second financial upgradation to the rank of SI for those who are recruited as Constables ought not to be granted in view of the pending review of the promotional policies. At the same time, however, the review ultimately crystallized in amendment of the promotional rules only on 10.05.2005. By then, several individuals including the petitioners had qualified and become entitled to the grant of ACP benefits. The petitioners were granted these benefits in 2002 and 2003. By no stretch of imagination can it be contended by the ITBP that the grant of such ACP benefits in 2002 and 2003 when the introduction of the intermediary post of ASI had not occurred was not justified. There is nothing on the record to indicate that the introduction through amendment of the Rules in May, 2005 was to operate retrospectively. In these circumstances, the ACP benefits given to the petitioners were not only legitimate but they vested their right in them which could not have been altered to their disadvantage at all, not at least in the manner proposed by the respondents.

For the forgoing reasons, the impugned orders cannot be sustained and are hereby set aside. It is declared that the petitioners were entitled to the pay scale of ₹5500-9000 (pre-revised) on completion of 12 years service in 2002 and 2003 on various dates. The respondents are hereby directed to release the arrears of pay and all other allowances w.e.f. the said date. All consequential steps towards fixation of pay and increments shall also be taken. In addition, the respondents shall pay interest @ 12% per annum for



the period 1.1.2008 onwards till date of payment. The respondents shall also bear the costs; each of the petitioner is entitled to costs quantified @ ₹15,000/- (Rupees fifteen thousand). All payments shall be released in terms of this order. These directions shall be complied with within eight weeks from today.”

(emphasis supplied)

7. The said Order was subject matter of challenge before the Apex Court in SLP (C) No.22243-22244/2016. The said SLP has been dismissed by the Apex Court vide Order dated 18.10.2019 with the following order:-

“In spite of service, no one has entered appearance on behalf of the respondents.

Heard learned senior counsel for the petitioner.

On 12.07.2016, limited notice was issued on the imposition of costs.

The High Court while allowing the writ petition filed by the respondents herein observed as under:

“.....The respondents shall also bear the costs; each of the petitioner is entitled to costs quantified @ Rs.15,000/- (Rupees fifteen thousand)...”

Learned senior counsel for the petitioners vehemently contended that the above-mentioned observation made by the High Court is uncalled for and the costs imposed on the petitioners should be waived off.

Having heard learned senior counsel for the petitioner and perusing the impugned order passed by the High Court, we are of the considered opinion that the above-mentioned observation made by the High Court is uncalled for and the same is required to be deleted.



The same is accordingly directed to be deleted. Consequently, the cost of Rs.15,000/- (Rupees fifteen thousand only) imposed on the petitioners is waived off.

However, it is clarified that the petitioners will have to pay the costs quantified @ Rs.2500/- (Rupees two thousand five hundred only) to each of the respondent as directed by the High Court vide order dated 11.02.2016 in Review Petition No.591/2015 in W.P.(C)No.7583/2011.

The special leave petitions stand disposed of accordingly.”

8. In view of the above, this Court is inclined to extend the very same benefit to the Petitioners herein.

9. With these observations, the petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

OCTOBER 13, 2025

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