

(2023) 04 DEL CK 0114

In the Delhi High Court

Case No : Civil Writ Petition No. 4967 Of 2023, Civil Miscellaneous Application No. 19374, 19375 Of 2023

Anil Kumar

APPELLANT

Vs

Sashastra Seema Bal And Anr

RESPONDENT

Date of Decision : 19-04-2023

Acts Referred:

Citation : (2023) 04 DEL CK 0114

Hon'ble Judges : Suresh Kumar Kait, J; Neena Bansal Krishna, J

Bench : Division Bench

Advocate : Joby P. Varghese, Krishna Kumar Sharma, Anil Devlal

Final Decision : Disposed Of

Judgement

1. The petitioner in his petition has made following prayers:

a) To call for the records of the case.

b) To quash the order dated 22.12.2021 being order no. 1/E-1/37/Revised/Pay Fixation/07th CPC/ 04th BN/SSB/2021/20266-68 issued by respondent no.1 whereby petitioner's pay was revised and reduced from Rs. 6460+ 2000 (G.P) to Rs. 5700+ 2000/- (GP) w.e.f 01.01.2006.

c) To quash the order dated 22.12.2021 being order 01.09.2022 being no. I/E-I/17/Promotion/Pay Fix/ 4th BN SSB/ 2022/18243 refusing to modify the order dated 21.12.2021 refixing and reducing the pay of petitioner to Rs. 5700/-+ Rs. 2000 GP w.e.f 01.01.2006.

d) To direct refixation of petitioner's pay to Rs. 6460+2000 GP w.e.f 01.01.2006.

2. The issue raised in the present petition had come before this Court first time in W.P.(C) No. 727/2015 titled as "Dasrath & Ors. vs. Union of India & Ors." and the same was disposed of vide Order dated 27.01.2015.

3. The aforesaid judgement was challenged by the respondents in the Hon'ble

Supreme Court and the same was dismissed vide Order dated 21.10.2019. Thereafter, the said order was complied with by the respondents.

4. Relying upon the aforementioned judgement passed by this Court, the petition filed by Mr. Vinod Kumar and Mr. Jitender Sharma vide W.P.(C) 6914/2013 titled as "Vinod Kumar & Anr. Vs. Union of India & Ors." and the same was also disposed of vide Order dated 19.12.2018 with the observation as under:

"1. In view of the earlier decision of this Court, separate orders dated 14th December, 2018 have been issued by the office of the Director General, Sashastra Seema Bal, Ministry of Home Affairs, R.K.Puram, Sector-1, East Block-V New Delhi-110 066, addressing prayer (i) of the petition in respect of both Petitioner No.1 (Vinod Kumar) and Petitioner No.2 (Jitender Sharma). The arrears be paid by the Respondents to each of the Petitioners at the earliest and in any event not later than eight weeks from today."

5. The said order dated 19.12.2018 has also been complied with.

6. Thereafter, Officiating Commandant, 4th Battalion SSB, Lucknow passed an Order dated 22.12.2021 wherein pay of the petitioner was re-fixed under FR-22 (i) (a) (1) in PB-I on being re-designated as a Constable/ Tradesman of Matriculate Follower/ tradesman of that unit and was also granted subsequent increments and the details are mentioned in Annexure P-1 (colly) of the abovesaid order.

7. Being aggrieved, the petitioner made a representation and the same was replied vide Office Memorandum dated 01.09.2022 by stating as under:

"Further, during the course of audit of the Bn by IAW team , they have found irregularity in pay fixation of CT (Orderly 's) who were posted at this unit and directed to re-fix their pay to Rs 5700/- + 2000/- (G P). On the instant matter this office sought clarification from Force Hqrs SSB New Delhi in the similar matter of CT (Orderly) Surinder Singh and FHQ SSB New Delhi vide their FAX Message No 13/SSB/IIU /FHQ/ Pay Anomalies /20/90 dated 03/02/20 20 (copy enclosed) has clarified that , the observation raised by IAW Audit Team in connection with wrong fixation of pay in respect of CT (Orderly) Surinder Singh in Rs 6460/- w e f 01/01/2006 is correct as it does not cover under the ambit of MoF DoE OM No . 8-23 /2017-E .III A dated 28th September , 2018 , as there is no direct recruited for the post of CT (Orderly) on or after 01/01/2006. Further, the pay of CT (Orderly) Jitender Sharma & Vinod Kumar have been re-fixed in Rs 6460/- + 2000/- (G P) w.e.f 01/01/2006 in compliance of Hon'ble High Court of Delhi Judgment dated 19/12/2018 against the writ petition filed by both CT (Orderly) in High Court of Delhi."

8. Since the Judgements in Dasrath (supra) & Vinod Kumar (supra) have already been implemented by the respondents and petitioner is similarly situated, therefore, we hereby direct the respondents to take final decision within four weeks in parity with the case of Dasrath (supra) & Vinod Kumar (supra).

9. The decision so taken shall be communicated to the petitioner within one week thereafter. Till the decision is taken by the respondents, the Order dated 22.12.2021 shall remain stayed qua the petitioner.

10. If the petitioner feels aggrieved by the decision so taken, he may challenge the same before the appropriate forum.

11. In view of above, the petition and pending application, if any, stand disposed of.