

(2025) 06 DEL CK 0611

In the Delhi High Court

Case No : Writ Petition (C) No. 807 Of 2021

Dr. Subodh Jha And Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 12-06-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2025) 06 DEL CK 0611

Hon'ble Judges : Navin Chawla, J;Shalinder Kaur, J

Bench : Division Bench

Advocate : Sagar Saxena, Parmeet Singh, Sarthak Pandey, Krisnandu Haldar, Virender Pratap Singh Charak, Shubra Parashar, Pushpender Singh Charak, A. Shukla

Final Decision : Allowed

Judgement

Shalinder Kaur, J

1. The present petitions have been filed under Article 226 of the Constitution of India seeking an issuance of writ of mandamus directing the Respondents to forthwith grant all the benefits of Non-Functional Financial Up-gradation (NFFU) and other entitlements as per the recommendations of Sixth Pay Commission to SAG (PB-4, Level 14; with GP 10,000) and to HAG (Level 15) accrued to the petitioners with effect from 01.01.2006, as per their eligibility vis-à-vis Medical Officers of Central Health Services (CHS). Additionally, the petitioners are seeking release of arrears thereof in view of the said directions.

BRIEF FACTS

2. For the sake of brevity, the petitioners in Writ Petition (Civil) No. 807 of 2021 (hereinafter referred to as "Petition No. 1") are currently serving Medical Officers of General Duty Medical Officer Cadre of the Central Armed Police Forces (CAPF) and shall hereinafter be referred to as "Serving Officers". The petitioners in Writ Petition (Civil) No. 827 of 2021 (hereinafter referred to as "Petition No. 2"), are

the retired Officers of General Duty Medical Officer Cadre of the CAPF and shall be hereinafter referred to as "Retired Officers". As the facts of both the petitions are similar in nature, these are accordingly being dealt with together vide this common Judgment.

3. The main grievance of all the petitioners pertains to the alleged non-extension of the benefit of NFFU to the Medical Officers of CAPF Medical Cadres in parity with the Medical Officers of the CHS, Ministry of Health and Family Welfare, in terms of the recommendations of the Sixth Central Pay Commission.

4. The petitioners, having been duly appointed to the Medical Cadre of their respective CAPFs, joined service and subsequently superannuated on the dates as mentioned herein below:

S. No.

Name of the Petitioner

Force

Date of joining

Date of Superannuation

Petitioners in Petition No. 1

1.

Dr. Subodh Jha

BSF

05.02.1993

Currently serving as Chief Medical Officers

2.

Dr. Rajendra Kumar Verma

ITBP

18.05.1987

3.

Dr. Pradeep Joshi

SSB

27.04.1992

Petitioners in Petition No. 2

4.

Dr. Bhola Shankar Mishra

CRPF

1997

31.10.2009

5.

Dr.Nimain Charan Mohanty

CRPF

1973

01.04.2006

6.

Dr. Sudhir Kumar Achaya

BSF

1974

31.03.2008

7.

Dr. Ramesh Chandra Mohanty

CRPF

1975

31.05.2007

8.

Dr. Dipak Mohapatra

CRPF

1971

28.02.2006

9.

Dr. Girdhar Gopal Upmanu

BSF

1971

30.06.2008

10.

Dr. Subas Chandra Mahapatra

ITBP

1972

31.01.2006

11.

Dr. Chitta Ranjan Pattanayak

ITBP

1972

30.09.2007

12.

Dr. Samir Kumar Das

BSF

1972

30.09.2008

13.

Dr. Bharata Chandra Pati

SSB

1974

29.02.2008

14.

Dr. Bishnu Charan Das

CRPF

1974

30.11.2006

5. It is the case of the petitioners that, subsequent to their appointment, the respondent No. 2, vide Office Memorandum (OM) dated 06.07.1994, undertook a restructuring exercise in respect of the Medical Cadres of the Central Police Organizations (CPOs). By way of the said restructuring, the medical cadres in the CAPFs were reorganized on lines analogous to those of the Central Health Services (CHS), thereby ensuring parity in matters of pay, career progression and service conditions. Furthermore, all allowances admissible to CHS Medical Officers were extended to the Medical Officers serving in the CAPFs.

6. Thereafter, vide a letter dated 12.12.2000 the respondents enhanced the percentage ceiling for grant of Non-Functional Selection Grade (NFSG) in the Medical Cadres of the CAPFs from 15% to 30% of the cadre strength beyond the Junior Administrative Grade (JAG) in conformity with the CHS structure, pursuant to the recommendations of the Fourth Central Pay Commission (4th CPC).

7. Subsequent thereto, upon acceptance of the recommendations of the Fifth Central Pay Commission (5th CPC), the Government of India introduced the Dynamic Assured Career Progression (DACP) Scheme for Medical Officers in the CHS, vide OM dated 05.04.2002. The said scheme was extended to the Medical Cadres of the CAPFs vide the letter dated 05.09.2003, with retrospective effect. Thereafter, a senior-level post in the Higher Administrative Grade (HAG) was also created by the respondents in the year 2004, in the pre-revised pay scale, to be designated as Additional Director General (Medical), to head the integrated CAPF Medical Services. The creation of a HAG-level post, as per the petitioners, satisfied the precondition for up-gradation under the NFFU scheme as recommended by the Sixth Central Pay Commission (6th CPC) with effect from 01.01.2006.

8. Upon the recommendations of the 6th CPC, the Union Cabinet introduced a provision whereby officers belonging to Organized Group 'A' Services would be entitled to promotion to the next higher pay scale on a non-functional basis, first to the Senior Administrative Grade (SAG) in Pay Band-4 (Level 14) and thereafter to HAG (Level 15).

9. Pursuant to the said recommendations, the Department of Personnel and Training (DoPT) issued OMs dated 24.04.2009, 21.05.2009, and 25.09.2009, whereby NFU was granted to officers belonging to Organized Group 'A' Services which provided for financial up-gradation to the next higher scale for officers belonging to a batch two years senior to the batch in which an IAS officer of the same cadre was promoted and issued further clarifications regarding modalities for implementation.

10. However, vide OM dated 02.04.2012, the DoPT clarified that the benefit of NFU would not be applicable to officers serving in Organized Services where Flexible Complementing Scheme (FCS) or DACP was already in operation and where officers were governed by their own in-situ career progression schemes.

11. Whereafter, in response to a Right to Information (RTI) application, the DoPT, vide communication dated 26.10.2012, stated that it did not maintain any separate or updated list of Organized Group 'A' Services, thereby creating uncertainty over the formal status of certain services, including CAPF Medical Cadres.

12. In light of the aforesaid position, the petitioners are stated to have made representations before the competent authority seeking grant of NFFU benefits, but the said representations remained unanswered, and no relief was extended to them.

13. Aggrieved by the inaction on part of the respondents and denial of benefits allegedly due to them under the NFFU scheme, the petitioners have approached this Court by way of the present writ petition, seeking appropriate directions.

SUBMISSIONS OF THE PARTIES

14. The learned counsel for the petitioners, Mr. Sagar Saxena, placing reliance on OM's dated 06.07.1994 and 02.11.1994 issued by the MHA, submitted that the service conditions of the petitioners, including pay structure, promotional avenues, and retirement age, have historically been aligned with the CHS under the Ministry of Health and Family Welfare. He submitted that the said OM's expressly provided that the restructuring of Medical Cadres in CAPFs would be undertaken on the same lines as CHS, and the procedure for promotion and appointments as applicable to CHS would *mutatis mutandis* apply to the CAPFs. Therefore, the petitioners cannot be denied benefits of grant of NFFU on parity with the Medical Officers of CHS.

15. The learned counsel submitted that the grant of DACP scheme to Medical Officers of CAPFs cannot be a ground to deny them the benefit of NFFU, especially when Medical Officers serving in CHS, who are also covered by DACP, have been granted the benefit of NFFU pursuant to directions passed by this Court in *Joint Action Council of Service Doctor's Organisation v. Union of India & Ors.*, 2014 SCC OnLine Del 1978. In these circumstances, he submitted, such parity must extend to the present petitioners.

16. He further contended that the DoPT's OM dated 02.04.2012, which sought to exclude those services already covered under DACP or FCS from NFFU, has been subsequently declared as "non-est" by the Government itself vide OM dated 03.05.2018, and hence, cannot be relied upon by the respondents to deny benefits to the petitioners.

17. He further submitted that the petitioners, by virtue of being members of an organized Group 'A' Central Civil Service, are entitled to the benefit of grant of NFFU as per the recommendations of the 6th CPC, accepted and implemented by the Government of India through Office Memorandum dated 24.04.2009, 21.05.2009, and 25.09.2009 issued by the DoPT. He, placing reliance on the judgment of this Court in *G.J. Singh & Ors. v. Union of India & Ors.*, 2015 SCC OnLine Del 11803, wherein officers of the executive cadre of CAPFs were held to be eligible for NFFU, having satisfied the test of being part of an organized Group 'A' Service, contended that the CAPF Medical Cadres fulfill all parameters of an organized Group 'A' Service (OGAS) as stipulated in DoPT guidelines and monographs, and therefore, cannot be excluded from the scope of NFFU.

18. Concluding his arguments, the learned counsel submitted that despite the continued linkage between CHS and CAPF Medical Services over the past several decades, and despite various representations made by the petitioners for extension of NFFU benefits, no reasoned decision has been taken by the respondents. The denial of NFFU to the petitioners is therefore arbitrary, violative

of Article 14 and Article 16 of the Constitution of India, and contrary to the settled principle that equals must be treated equally.

19. Per contra, the learned counsels, Mr. V.P. Singh Charak and Mr. Neeraj, SPC, appearing on behalf of the respondents submitted that the present writ petitions are not maintainable inasmuch as the claims raised by the petitioners relate to service and financial benefits, involve issues of classification and equivalence of services, which are inherently policy matters. They submitted that such matters fall exclusively within the domain of the Executive, and this Court, in exercise of its writ jurisdiction under Article 226 of the Constitution, ought not to interfere with the same, specifically when no legal or constitutional infirmity has been pointed out in the Government's policy decisions on behalf of the petitioners.

20. The learned counsels submitted that the petitioners, being Medical Officers from the CAPFs, are not entitled to the benefit of NFFU, as they do not belong to any cadre or service which has been formally notified or recognized as an Organized Group 'A' Central Service. As per the policy framework laid down by the DoPT, the grant of NFFU is confined to such services which satisfy all the attributes of an OGAS, including approval of service cadre structure by the Cabinet, presence of structured hierarchy and regular cadre review, among others. Thus, the Medical Cadres of CAPFs have not been declared as such, and therefore, fall outside the purview of NFFU.

21. The learned counsel, placing reliance upon the OMs dated 24.04.2009 and 25.09.2009, and OM dated 02.04.2012, which expressly provided that officers of services where DACP or Flexible Complementing Schemes (FCS) are operational shall not be entitled to NFFU, submitted that the benefits under the DACP scheme have already been extended to the CAPF Medical Officers vide MHA orders, and as such, the claim for NFFU is impermissible.

22. The learned counsel submitted that the nature of service of Medical Officers in CAPFs differs significantly from that of Medical Officers in CHS, Indian Railways, or Ordnance Factories. The petitioners function within the command-and-discipline structure of paramilitary forces, and are governed by separate statutory rules, including Force-Specific Acts and Service Rules. Accordingly, the CHS cannot be treated as a valid comparator for the purpose of claiming financial parity. Moreover, the petitioner cannot claim any benefits beyond those specified in the Recruitment Rules.

ANALYSIS & FINDINGS

23. In view of the conflicting submissions as put forth on behalf of the parties, the principal issue before us is, whether the Petitioners, being serving and retired medical officers of the General Duty Medical Cadre of the CAPF, are entitled to the benefit of NFFU and other entitlements as per the recommendations of the 6th CPC effective from 1st January, 2006.

24. Indeed, NFFU was introduced in 2006 by the 6th CPC to address the issue of

stagnation and improve career prospects for officers in OGAS, where a defined cadre structure and career progression endures. It postulates financial benefits in the absence of official promotion. Under the NFFU scheme, officers gain a higher salary and benefits even if they do not proceed in rank. Financial up-gradation is granted if a batch-mate is promoted, even without an actual promotion.

25. NFFU was essentially introduced for OGAS, a subset of the Central Civil Services (Group A), characterized by a hierarchical structure with different grades of posts and defined responsibilities. The objective is to prevent stagnation among non-promoted officers in cadres where promotional avenues are limited, especially as one moves up the hierarchical pyramid. When a batch-mate is promoted to a particular position or rank, officers from the same batch are placed in the same pay grade, even without an actual promotion. NFFU thus provides financial upgradation without altering seniority, posts, or duties. Furthermore, to be eligible for the grant of NFFU, officers must meet the prescribed eligibility criteria, promotional norms, and benchmarks defined in the related DoPT mandates.

26. In the case before us, the petitioners while relying upon the decision in G.J. Singh (Supra) have claimed that CAPFs General Duty (GD) Cadre has been adjudged by the Delhi High Court as Central Group 'A' Service since 1986, as these services were listed as Central Group 'A' Civil Services Cadre Monograph, 1986. CAPFs medical cadre were also listed in the same list, hence, being similarly placed, the medical officers should have been given all benefits as allowed to CAPFs GD Cadre.

LEGAL POSITION

27. Before addressing the pleas raised by the parties, we consider it appropriate to outline the legal position. It is noteworthy that the recommendations of the 6th CPC regarding the grant of NFFU to officers of OGAS were accepted by the Government of India, and an OM dated 24.04.2009 was issued, extending the benefit of the NFFU scheme with effect from 01.01.2006. However, this benefit was not extended to the BSF, CRPF, and other CAPFs. The O.M. dated 24.04.2009 reads as under:-

"No. AB.14017/64/2008-Estt.(RR)

Government of India

Ministry of Personnel, Public Grievances and

Pensions

Department of Personnel and Training

New Delhi, the 24th April, 2009

Office Memorandum

Subject:- Non-Functional, upgradation for Officers of Organised Group 'A'

Services in PB-3 and PB-4

Consequent upon the acceptance of the recommendations of the Sixth Central Pay Commission, the following orders are issued:-

(i) Whenever an Indian Administrative Services Officer of the State of Joint Cadre is posted at the Centre to a particular grade carrying a specific grade pay in Pay band 3 or Pay Band 4, the officers belong to batches of Organised Group A Services that are senior by two years or more and have not so far been promoted to that particular grade would be granted the same grade on non-functional basis from the date of posting of the Indian Administrative Service Officers in that particular grade at the Centre.

(ii) Grant of higher scale would be governed by the terms and conditions given in Annex-I.

(iii) Appropriate amendments in the Service Rules may also be carried out.

(iv) Establishment Division of this Department will issue orders from time to time, in consultation with the Establishment Officer, intimating the batch of the officers belonging to the Indian Administrative Service who have been posted at the Centre in the various grades of PB-3 and PB-4 as well as the date of posting of the first officers belonging to the batch.

2. Grant of higher scale (i.e. pay band and/or grade -pay) under these instructions would be w.e.f. 1.1.2006, wherever due and admissible.

3. Hindi version will follow.

-Sd-

(SMITA KUMAR)

Director(E-I)

Tel. 2309 2479"

28. As a fallout of the above mentioned O.M., several serving and retired Medical Officers in CRPF made representations to the central government, which was rejected vide O.M. No. F.No.P.I.1/21022-PERS.DA-Pay dated 28.10.2013 on the ground that the grant of NFFU applies only to those Group-A services that fall under the Central Staffing Scheme and are part of OGAS, to which the petitioners did not belong.

29. To challenge the said O.M., the petitioners, who were officers in CRPF filed a batch of Writ Petition, seeking grant of NFFU as applicable to other Group 'A' Officers of Central Government, which were disposed of vide the common Judgment of G.J. Singh (Supra).

30. This Court in case of G.J. Singh (Supra), while allowing the writ petitions

granted the benefit of NFFU as recommended by the 6th CPC to the said petitioners held as under:-

"75. The crux of this matter is the Government's classification of Group A services as organized or otherwise and whether the officers of the CAPFs (previously known as CMPFs) are a part of Organized Central Group - A Services. The Court would note that the issue in these cases is not fixation of pay scale as argued by the learned ASG but is in fact, whether the Government itself has at anytime acknowledged or stated that such officers of the CAPFs form a part of organised Group-A Services. Therefore, the reference to and reliance on various judgments referred to above in Para 63 in his contentions above are misplaced because those precedents deal with fixation of pay and not with classification of services in 'organised' and unorganised cadres which is the issue in this batch of writ petitions.

xxx

78. From the above, it is clear that the Government itself has admitted way back on 21.10.1986 that BSF and CRPF are organised services and have in fact used them as examples of organised services. Thereafter, the Government has through its own process classified the BSF, CRPF, ITBP and CISF as being at par with each other in the 1986, 1993 and 2010 Monographs wherein the aforesaid CAPFs have been shown as part of the same Group 'A' Central Civil Services.

79. The report of the Second Administrative Reforms Committee includes in Table 4.1 a list of all Organised Group 'A' Central Civil Services in the Government of India in which paramilitary forces such as BSF, CISF, CRPF and ITBP are shown at Serial nos. 22 to 25 respectively and the source at the bottom of the table is stated to be the DoPT itself.

80. The Court would note that after about six years of the publication of this report, the matter is being argued and the Government's own documents are being relied upon by the petitioners to contend that they belong to Organised Group 'A' Central Civil Services of the Government. Meanwhile, the Government has sought to correct the said list to exclude the petitioners (CAPFs) from the ambit of Organised Group 'A' Central Civil Services. This, however, is impermissible in law since the release of the list was a result of a statutory exercise. The information supplied to the Administrative Reforms Committee would have been accompanied by affidavits of and/or communication from responsible officers and the Government would be bound by it. Therefore, the Court is of the view that for the Government to state that this was a mistake to withdraw it, at this stage, is neither convincing nor tenable.

81. The Court would note that the DoPT's OM dated 19/20.11.2009 which lays down six attributes which a Central Groups 'A' Service needs to possess to be considered as Organised cannot be relied upon too heavily since it is the respondents' own admission in the impugned OM dated 28.10.2013 that "these attributes are merely traits /characteristics and are not sacrosanct." The Note at

the bottom of the 2009 OM provides for minor deviations from these attributes. It also states that even if a Group 'A' Service possesses all six attributes, it might not be automatically conferred the status of an Organised Group 'A' Service as these have to be "constituted consciously" and "can be constituted only through the established procedures". The Court is of the view that the presence of reports and other documents explicitly stating the CAPFs are an Organised Group 'A' Service evidences that they have been constituted consciously and through established procedures.

82. The Government's contention that NFFUs cannot be granted since the CAPFs comprise a strict hierarchy with a well defined Command and Control structure; that any interference with this structure would be detrimental to the interest of the forces and would adversely affect its operation and functioning; It was thus, claimed that all posts in the CAPFs are functional and there is no room for Non Functional posts, is untenable because by very definition there is no interference with functions, duties or the posts but only an increase in the financial prospects.

83. The Court would also take cognizance of the reply dated 11.02.2015 to an RTI application whereby certain queries bearing relevance to the present case were sought and through which it was revealed that the Indian Defence Accounts Service (IDAS) is an Organised Group 'A' Central Civil Service. This RTI reply was accompanied by a list of all Organized Group 'A' Central Civil Services. This is the same list discussed above and seen in the report of the Second Administrative Reforms Committee in Table 4.1 and includes the CRPF. Therefore, it can be seen that as recent as 11.2.2015, this list has been endorsed and relied upon by the Government of India and the Court sees no reason to doubt its applicability.

84. The issue of acknowledging the petitioners as OGAS has been pending for some time like a festering wound. From the preceding discussion, the Court would note although from the government records it can clearly be seen that the Petitioners have over and over again been recognised as OGAS, an element of obfuscation has been kept alive. It cannot be overemphasised that in matters relating to the armed forces and the paramilitary/CAPFs there ought to be clarity and certainty apropos the service benefits which the forces would be entitled to. An element of greater dispatch in taking decisions governing their service conditions would always be requisite. Therefore, to the extent that the OM dated 19/20.11.2009 and OM dated 28.10.2010 themselves leave scope for interpretation, it could well be said that there is a level of arbitrariness in them. The government having repeatedly acknowledged the Petitioners in their various communications as belonging to OGAS cannot be allowed to reprobate there from.

85. In view of the above, the Court is of the view that the petitioners, i.e., officers in PB-3 and PB-4 in the CAPFs (CRPF in the present instance) have been categorised under Organised Group 'A' Service ever since the year 1986. Hence,

the benefits contemplated by the 6th CPC by way of NFFU to remove disparity between All India Services and other Organised Central Group 'A' Services, ought to be granted to them. Accordingly, the impugned OM dated 28.10.2010 and all other letters whereby the petitioners' request for the grant of NFFU was rejected, cannot be sustained and are hereby quashed."

31. The Union of India, the respondent therein, assailed the above decision of this Court and filed a Special Leave Petition titled as Union of India & Ors. v. Sri Harananda & Ors., (2019) 14 SCC 126. The Supreme Court dismissed the SLP, holding that it cannot be said that CAPFs do not constitute a part of OGAS. The relevant paragraphs of the decision are extracted herein below:-

"23.4 Considering the material on record, more particularly, the monographs published by the DoPT right from 1986 till date, CAPFs have been shown to be a part of the Central Group A Services. CAPFs have been shown as a part of the Central Group A Services after conducting the exercise of cadre review etc. by the DoPT. Therefore, all throughout from 1986 till date, in the Monographs published by the DoPT, CAPFs have been shown to be a part of Central Group A Services. Therefore, thereafter it would not be open for the DoPT not to consider and/or treat the CAPFs as an Organized Group A Services.

23.5 So far as the submission made on behalf of the Appellants that CAPFs are not an Organized Group A Services as they do not satisfy two attributes out of six attributes is concerned, it is required to be noted that the O.M. dated 19-11-2009 specifically notes that there may be certain "minor deviations" from the attributes listed therein and also to the extent wherein it states that even if the listed criteria are fulfilled, the same would not automatically confer the status of an Organized Group A Service. Thus, as rightly observed by the High Court in the impugned judgment and order, fulfilling/compliance of the attributes shall not be given too weightage while deciding on the status of CAPFs.

23.6 At this stage, it is required to be noted that while considering the case of ITBP, the Department of Expenditure, Ministry of Finance, Government of India, it has been referred to in the additional affidavit of the Director, DoPT that since ITBP has no proper structure it is not possible to compare it with other Organized Services like BSF, CRPF. Thus, the Government itself has itself admitted way back on 21.10.1986 that BSF and CRPF are Organized Services and have, in fact, used them as examples of Organized Services. At the cost of repetition, it is to be noted that thereafter the Government has, through its own process, classified the BSF, CRPF and ITBP as being at par with each other in the 1986, 1993 and 2010 Monographs, wherein the aforesaid CAPFs have been shown as a part of the same Group A Central Civil Services.

23.7 From the impugned judgments and orders passed by the High Court, it appears that by passing the impugned judgments and orders and holding that CAPFs are Organized Group A Central Civil Services, the High Court has considered the report of the Second Administrative Reform Committee which

included in Table 4.1 a list of all Organized Group A Central Services in the Government of India in which the Paramilitary Forces such as BSF, CISF, SRPF and ITBP are shown at SI. Nos. 22 to 25 respectively and the source at the bottom of the Table is stated to be the DoPT itself.

23.8 Considering the aforesaid facts and circumstances and the material on record, which came to be considered by the High Court in detail, it cannot be said that CAPFs do not constitute Organized Group "A" Central Civil Services/ Group A Central Civil Services.

24. Now, so far as another ground on which the CRPF are denied the NFFU that the 6th Central Pay Commission did not grant NFFU to CAPFs is concerned, it is required to be borne in mind that the Central Pay Commission, as such, is not authorised to define "Organized Services" or to grant such status to any service. The recommendations would be made by the Central Pay Commission on the basis of the information submitted to it by the various Departments. It appears from the material on record that right from 1986 onwards, in various Monographs CAPFs were included in the list of Group A Central Civil Services. The Government took "U" turn and a stand was taken that CAPFs are not Organized Group A Central Services and, therefore, on the basis of such a stand, the Department must have given the information to the Central Pay Commission and, therefore, the 6th Pay Commission did not recommend NFFU to CAPFs. Therefore, merely because the 6th Pay Commission did not recommend to grant NFFU to CAPFs- Group A Officers in PB-III and PB-IV, the Group A Officers in PB-III and PB-IV cannot be denied the NFFU, which otherwise is granted to all the Officers of Group A Central Civil Services.

24.1 It is also required to be noted that, as such, the CAPFs were granted the benefit of recommendations of 4 th Pay Commission, more particularly, the Modified Assured Career Progression Scheme which was given to the Central Group A Civil Services.

24.2 Considering the aforesaid facts and circumstances and the objects and reasons of the grant of NFFU as recommended by the 6th Pay Commission, when the High Court has observed and consequently directed that the officers in PB-III and PB-IV in the CAPFs are Organized Group A Service and, therefore, entitled to the benefits recommended by the 6th Pay Commission by way of NFFU and thereby has directed the Appellants to issue a requisite notification granting the benefits of NFFU as recommended by the 6th Central Pay Commission, it cannot be said that the High Court has committed any error which calls for the interference by this Court. We are in complete agreement with the view taken by the High Court."

(emphasis supplied)

32. From the above decision, it is discernible that the CAPFs, for all practical purposes, fall within the ambit of OGAS, including for the purpose of granting NFFU. In compliance with the aforesaid decision of the Supreme Court, the DoPT

issued an O.M. dated 04.07.2019, which is reproduced herein below:

"No J-II-07/2018-SLP/Pers.II

Government of India

Ministry of Home Affairs

Police-II Division

BSF

North Block, New Delhi

Dated, the 04th July, 2019.

OFFICE MEMORANDUM

Subject: Grant of benefits of Non Functional Financial Upgradation (NFFU) and Non Functional Selection Grade(NFSG) to Group 'A' Executive Cadre Officers of CAPFs considered by the Hon'ble Courts as belonging to Organized Group A' Services (OGAS)-reg

The undersigned is directed to invite at'ention to the subject cited above. Approval of competent authority is hereby conveyed to grant of OGAS to Group 'A' Executive Cadre Officers of CAPFs and consequential benefits of NFFU with effect from 01.01.2006 and NFSG @ 30% of Senior Duty Post (SDP) with effect from 06.06.2000, as per the Department of Personnel & Training guidelines dated 24.04.2009 and 06.06.2000 respectively and subsequent instructions thereon.

2. The DsG of CAPFs are, therefore, directed to extend the benefits of NFFU and NFSG to the eligible Group 'A' Executive Cadre Officers of CAPFs by taking immediate necessary action for implementation. Compliance report be sent to MHA within a fortnight.

-sd-

(Lalit Kapoor)

Deputy Secretary to the Govt. of India

Tele 23092889"

33. Consequently, the said O.M. conveyed the approval of the Competent Authority for according OGAS status to the Group-A Executive cadre officers of the CAPFs and, as a result, the grant of NFFU benefits with effect from 01.01.2006. The Director Generals of the CAPFs were directed to take immediate necessary action to implement the grant of NFFU benefits accordingly.

34. In a recent judgment, titled as Sanjay Parkash and Anr. Vs Union of India and Anr., 2025 SCC OnLine SC 1201, in a batch of civil appeals filed by the CAPFs, while considering the judgments of G.J. Singh (Supra) and Harananda (Supra), the Supreme Court observed as under:

"43. Now that the Central Government has accepted that CAPFs are included in OGAS, the natural consequences should follow. Eligible officers belonging to the CAPFs have already been granted NFFU following the decision of this Court in Harananda (supra). DoPT OM dated 12.07.2019 makes it abundantly clear that the CAPFs have been treated as OGAS for cadre issues and all other related matters. In other words, CAPFs are OGAS for all purposes. When CAPFs have been declared as OGAS, all benefits available to OGAS should naturally flow to the CAPFs. It cannot be that they are granted one benefit and denied the other."

(emphasis supplied)

35. From the above decisions, it is evident that officers in PB-3 and PB-4 in the CAPFs belong to OGAS and are, therefore, entitled to the benefits recommended by the 6th CPC, including the grant of NFFU. In compliance with the decision in the case of Harananda (supra), the Ministry of Home Affairs has conveyed its approval for granting OGAS status to Group-A Executive cadre officers of the CAPFs, along with the consequential benefits of NFFU, with effect from 01.01.2006, and NFSG at 30% of senior duty posts with effect from 06.06.2006.

36. Having said so, now we proceed to consider the next submission of the petitioners that they being Medical Officers of Medical Officers Cadre in CAPFs, are also entitled to grant of benefit of NFFU, as has been granted to the Executive Cadre Officers of CAPFs.

37. The petitioners have claimed that initially, Medical Officers were inducted into the CAPFs either on deputation from the CHS or through recruitment via CHS to serve in the Central Paramilitary Forces. These Medical Officers were later combatized in the CAPFs for the limited purposes of duty, discipline, and conduct, as per Government of India (MHA) Order No. M.II.1/73 Prov-Ft. II dated 10.06.1974, issued by Respondent No. 2. However, their service conditions, such as allowances and age of retirement, remained the same as those applicable to the Medical Officers in the CHS.

38. The learned counsel for the petitioners submits that the 4th CPC recommended for continuing the promotion prospects of CHS for CAPF Medical Officers. When these promotional benefits were not extended to CAPF Medical Officers by Respondent No. 2, they approached the Andhra Pradesh High Court by filing Writ Petition No. 11536/1990. Subsequently, the Government granted service benefits to CAPF Medical Officers at par with those of CHS Medical Officers, thereby maintaining parity in career progression between the two cadres. Similarly, CAPF Medical Officers were also extended additional benefits granted to CHS Medical Officers, as per O.Ms. dated 14.11.1991.

39. He submits that subsequently, the MHA, in consultation with the DoPT, restructured the medical cadres of the CAPF based on the same procedures prescribed in the CHS Service Rules, 1982. Accordingly, the benefits available to CHS Medical Officers were extended to CAPF Medical Officers thereafter.

40. The learned counsel also submitted that apart for the purposes of discipline, the command and control of CAPF Medical Officers were governed by the respective CAPF Act and Rules, Recruitment Rules of Medical Services of respective forces, however, with respect to their career progression, the pattern of CHS was followed. Moreso, the respondents have never expressly excluded the Medical Officers of CAPF from benefits of NFFU. To impress upon that service benefits of Medical Officers of CAPF are akin to CHS, the learned counsel submits that the petitioners are the beneficiaries of DACP since 1984 at par with CHS. He further highlighted that the age of retirement for Medical Officers in the CAPF was increased to 65 years, aligning it with that of the Medical Officers of the CHS, as per the MHA Order dated 30.06.2016.

41. The learned counsel submitted that the NFFU benefit as recommended by 6th CPC have already been extended to all similarly placed Medical Officers in CHS and other organizations, then, same be extended to the Medical Officers of CAPF. He submits that the CAPF Health Services have been denied such benefits, even though several representations have been made by them.

42. The learned counsel for the respondent refuted the submissions made on behalf of the petitioners by stating that the proposal to grant NFFU to Medical Officers of the CAPF was examined by the Ministry of Home Affairs in consultation with the nodal Ministry, i.e., the Ministry of Health and Family Welfare, and the DoPT. The Ministry of Health and Family Welfare declined the request for granting NFFU to CAPF Medical Officers, stating that NFFU was granted only to the Executive Cadre of CAPFs, as they were considered OGAS pursuant to directions of this Court and the Supreme Court. It was further submitted that the OGAS status of the medical cadre of CAPF has not been established, and since CHS is a medical cadre of OGAS, CAPF Medical Officers are not entitled to the same status.

43. The learned counsel also submitted that the recruitment of Medical Officers in the CAPF is governed by separate Recruitment Rules; therefore, they are not eligible for the same benefits granted to Medical Officers of the CHS, who have their own distinct Recruitment Rules. He further submitted that the petitioners, nonetheless, receive timely promotions and financial up-gradation benefits under the DACP scheme in accordance with the recommendations of the CPC. Consequently, they cannot be equated with CHS Medical Officers to grant the benefit of NFFU.

44. In rebuttal, the learned counsel for the petitioner submitted that the OGAS status of the medical cadre of the CAPFs has already been established, as reflected in the Tenth Report of the Second Administrative Reforms Commission dated November 2008. The health services of the BSF, CRPF, and ITBP have been recognized as OGAS alongside the CHS and other organizations.

45. The learned counsel drew our attention to the decision dated 13.10.2014 of this Court in Joint Action Council of Service Doctor's Organization (Supra), and

submitted that vide the said decision, even though the CHS Medical Officers were also being covered under DACP Scheme, still they were held to be entitled to the benefits of grant of NFFU also.

46. He further submitted that in pursuance to the aforementioned decision in Joint Action Council of Service Doctor's Organization (Supra), the Indian Railway Medical Service Officers have been allowed the benefits of grant of NFFU scheme upon considering them as OGAS. The learned counsel drew our attention to the Letter No. PC-VI/2009/I/4/R-6/1 dated 08.06.2018 which reads as under:

"GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

PC-VI No. 386

RBE No. 83/2018

No. PC-VI/2009/I/4/R-6/1

New Delhi, Dated:-08.06.2018

The General Managers/CAO(R)

All India Railways & Production Units,

(as per mailing list)

Sub: Grant of Non-functional Up-gradation to Indian Railway Medical Service officers.

Ref: (i) Railway Board's letter No. PC VI/2009/I/4/R-6/1 dated 27.11.2009 (RBE No.209/2009) & 29.07.2010 (RBE 107/2010)

(ii) Railway Board's letters No.PC-V/2008/ACP/2 dated 07.01.2009 (RBE No.05/2009)

Attention is invited to Railway Board's letter No. PC VI/2009/I/4/R-6/1 dated 27.11.2009 (RBE No.209/2009) circulating DOP&T's OM No. AB.14017/64/2008-Estt.(RR) dated 24.04.2009 & 25.09.2009 for adoption in favour of Railway Officers of Organised Group 'A' Services in PB-3 and PB-4.

2. It was subsequently clarified by DOP&T vide their OM No. A?.14017/39/2009-Estt. (RR) dated 02.04.2012 that the benefit of NFU to Organised Group 'A' Services shall not be applicable to the officers in those Organised Services where FCS and DACP Schemes are already operating and where officers are already separately covered by their own in-situ Progression Schemes. However, Hon'ble Delhi High Court in WP (C) No. 4067/2014 and WP (C) No. 4073/2014 vide orders dated 13.10.2014 quashed the DOP&T's OM dated 02.04.2012. Since the said judgment of Hon'ble High Court attained finality as Hon'ble Supreme Court

dismissed the SLP and Review in the case, DOP&T decided to declare their OM dated 02.04.2012 as non-est, as conveyed vide their OM No.CS-14017/1/2018-Estt. (RR)(Pt.I) dated 25.04.2018.

3. There has been a demand of IRMS officers also for extension of the benefits of NFU Scheme and the issue has been the subject matter of litigation. Hon'ble Central Administrative Tribunal vide their orders dated 28.09.2017 in O.A.No.3290/2017 (Indian Railway Medical Services Association & Anr vs DOP&T & Anr) allowed the relief in terms of the judgment of Hon'ble Delhi High Court in W.P.(C) No. 4067/2014. The matter was accordingly referred to DOP&T.

4. DOP&T have considered the issue in consultation with Department of Expenditure and conveyed their no-objection to the Ministry of Railways to extend NFU benefits to IRMS doctors. Accordingly, Ministry of Railways have decided to grant the benefit of Non-Functional Upgradation (NFU) Scheme as applicable to Organized Group 'A' services of Railways to IRMS Officers as per the detailed terms and conditions as have been in vogue from time to time after introduction of the scheme. Accordingly, grant of higher scale/benefits under the scheme would be admissible w.e.f. 1.1.2006, where due and admissible, as provided in the original instructions under reference.

-sd-

(S. Balachandra Iyer)

Executive Director/Pay Commission-II

Railway Board.

No. PC-VI/2009/I/4/R-6/1

dated 08.06.2018

New Delhi,

Copy to the Deputy Comptroller and Auditor

General of India (Railways), Room No. 224, Rail

Bhawan, New Delhi (with 40 spares).

-sd-

For Financial Commissioner/Railways"

47. To appreciate the pleas raised on behalf of the parties, it is necessary to refer to the Tenth Report of the Second Administrative Reforms Commission, Government of India, dated November 2008. The report lists the OGASs in Table 4.1, further categorizing them into (i) Non-technical services, (ii) Technical services (including engineering services), (iii) Health services, (iv) Other services, and (v) Central Secretariat services. The table 4.1 includes the BSF, CRPF and ITBP as OGAS under the Government of India. Additionally, the CHS,

BSF Health Services, CRPF Health Services, and ITBP Health Services are also included as Group-A Central Civil Health Services under the Government of India.

48. In Joint Action Council of Service Doctor's Organization (Supra), the petitioners were Joint Action Service of Doctor's Organization and Delhi Administration Doctor's Welfare Association, who were declined the benefit of grant of NFFU to the members of Petitioner's Association by the Central Administrative Tribunal, Principal Bench, New Delhi in OA Nos. 2727/2012 and 2726/2012. The benefit of grant of NFFU was denied on the ground that they were already getting benefits under DACP, therefore, NFFU could not be granted as it was 'not desirable to mix one with the other'.

49. Upon challenge of the said decision before this Court, said Order of the learned Tribunal was quashed and respondents were directed to grant the benefit of NFFU scheme to the members of the Central Health Scheme of Group-A service. The relevant extracts are reproduced as follows:

"18. The recommendations of the 6th CPO were to bring at par the pay of the officers in Pay Band - 2 and Pay Band 3, who are senior by two or more years to the IAS officers who are posted at the Centre. The upgradation is non-functional, and does not create any right for promotion or deputation benefits for the officers who are given the upgradation, which is personal to them. The objective of the NFU Scheme appears to be to remove the disparity in the pay being drawn by officers of Group 'A' Services (PB-3 and PB-4) vis-a-vis IAS Officers of the State or joint cadre who are posted at the Centre. The endeavour appears to be to remove the said disparity to a certain extent, as only such of the officers of the organized Group 'A' Service would get non-functional upgradation, who are at least two years senior to the IAS officer posted at the Centre. Pertinently, the Tribunal had itself found in the earlier round (while deciding O.A. No. 1169/2010) that the intention of the NFU Scheme was to remove the disparity between the IAS and other Group 'A' Services. The aforesaid finding has become final and it was never challenged by the respondents. The thirteen reasons given by the respondents before the Tribunal-which were recorded in the impugned order itself, appear to be wholly irrelevant to the purpose for which the NFU Scheme was granted by the 6th Central Pay Commission to officers of Group 'A' organized services. In our view, it is wholly irrelevant that the DACP Scheme was implemented for the CHS Officers up to NFSG level as per the Fifth Central Pay Commission's recommendation since 05.04.2002, whereas officers of other organized Group 'A' cadres were not granted such benefits. This is a historical fact of which the 6th CPC was aware. Yet it did not seek to deny the benefit of the NFU Scheme to the CHS. Obviously, the grant of NFU to the eligible officers of the CHS would be relevant, only if after grant of benefit under the DACP Scheme, there is disparity between the pay of the eligible officers in the organized Group 'A' Services and the pay drawn by the IAS Officer posted at the Centre. To us, it is clear that the reasoning adopted by the respondents to deny benefit of the NFU Scheme to the officers of the

petitioners association-which, admittedly, is an organized Group 'A' Service, is founded upon wholly extraneous considerations which do not find mention in the recommendation of the 6th Central Pay Commission as accepted by the government and the said reasons do not shake the basic purpose of the grant of NFU-as a personal upgradation to the eligible officers. Pertinently, even when clarifications were issued by the DoPT vide O.M. dated 25.09.2009, the DoPT did not seek to limit the scope of the entitlement to NFU, on the premise that where ACP or DACP schemes are in operation, the NFU shall not be admissible. Therefore, it appears to us, that the stand subsequently taken by the respondents to deny the benefit of the NFU Scheme to the eligible officers of the CHS, is clearly an after-thought.

19. Since we do not find any substance in the reasons given by the respondents to deny the benefit of the NFU Scheme to the officers of the petitioners associations, we have no hesitation in quashing the said decision of the respondents contained in the office memorandum dated 02.04.2010, which we hereby do."

(emphasis supplied)

50. The SLP thereagainst, being SLP(C) No. 9395-96/2015, was dismissed by the Supreme Court vide Order dated 06.07.2015. The review thereof, was also dismissed by the Supreme Court vide its Order dated 15.03.2016.

51. From the above, it emerges that although the DACP scheme was applicable to CHS Medical Officers as per the 5th CPC recommendations, the benefit of NFFU under the 6th CPC was made available to such officers only if, after the grant of benefits under the DACP scheme, a disparity existed between the pay of eligible officers in OGAS and the pay drawn by IAS officers posted at the Centre.

52. Pertinently, in view of Tenth Report of Second Administrative reforms' recommendations of the Government of India, like the CHS falling under Ministry of Health and Family Welfare, a Organized Group-A Central Civil Service, the BSF Health Service, the CRPF Health Service and the ITBP health service, falling under Ministry Of Home Affairs, are also included in the list of Organized Group-A Central Civil Services.

53. It is to be noted that Railway Boards Letter No. PC-VI/2009/I/4/R-6/1 dated 08.06.2018 granted the benefit of NFFU to the Medical Officers of Indian Railway Medical Services.

54. Moreover, this Court has adjudged CAPFs GD cadre as Central Group-A Service since 1986 as these services were listed as Central Group-A civil services I cadre Monograph 1986. CAPFs Medical Cadres were also listed in the same list, hence they are also similarly placed and should have been given all benefits allowed to CAPFs GD Cadre.

55. Consequently, the Medical Officers of the BSF, CRPF, and ITBP, like those of the CHS, would also be entitled to the benefits under the NFFU scheme as

granted by the 6th CPC, regardless of their coverage under the DACP scheme. However, it is made clear that the grant of NFFU to eligible officers of these three health services, i.e., BSF, CRPF, and ITBP Health Services, would apply only if, after the benefits under the DACP scheme have been granted, a disparity exists between the pay of these officers in OGAS and the pay drawn by IAS officers posted at the Centre.

56. In the conspectus of aforesaid circumstances, the respondents are hereby directed to issue the necessary orders granting the benefit of the NFFU scheme and other benefits under the 6th CPC to the Medical Officers of the BSF Health Service, the CRPF Health Service, and the ITBP Health Service, as part of OGAS with effect from 01.01.2006. The requisite orders shall be issued within twelve weeks from today.

57. Accordingly, the present petitions are allowed and disposed of in above terms.