

Si/Mm Satpal Singh And Ors vs Union Of India And Ors on 27 February, 2019

Author: S.Muralidhar

Bench: S.Muralidhar, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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+ W.P.(C) 13738/2018

SI/MM SATPAL SINGH AND ORS.

..... Petitioners

Through: Mr Suman Doval and Mr Amit
Kukshal, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms Arti Bansal, Advocate for UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% 27.02.2019

1.The 15 Petitioners who are Sub Inspectors („SI) posted with the various battalions of the Indo-Tibetan Border Police („ITBP) posts, have filed this petition seeking following reliefs:

"a) Issue a writ in the nature of mandamus directing the Respondents to grant the benefits to the present petitioners under the ACP scheme 1999 by granting them pay scale of Rs.5500-9000 from the date they completed 12 years of services as Head Constables and became entitled for grant of next higher grade in accordance with the existing hierarchy in their cadre/category of posts;

b) Consequently, Issue a writ in the nature of mandamus ordering &directing the Respondents to pay the accumulated differential total emoluments including salary, by calculating the emoluments on the basis of grade pay of Rs 5500-9000 /-

instead of Rs. 4000-6000/-, with interest @12% per annum calculated at monthly rest(s);

c) Pass any order or further order may also be passed, as this Hon'ble court may kindly deem fit and proper in the interest of justice."

2. The Petitioners have relied upon upon the decision dated 26th February, 2018 passed by this Court in W.P.(C) No.2372/2018 (Surjeet Singh & Ors. v. Union of India & Anr). It is submitted that the said decision decides the issue in favour of the Petitioners.

3. While accepting notice in the petition on 19th December 2018, learned counsel for the Respondents had sought time for instructions whether the aforementioned decision answers the issue in favour of the Petitioners. More time was sought was sought for that purpose on 11th February, 2019.

4. Today, learned counsel for the Respondents states that while she does not have any specific instructions on the above query, there are certain other petitions of other similarly placed persons which are pending in this Court.

5. The Court has examined the decision in Surjeet Singh v. Union of India (supra) and finds that the Petitioners therein were identically placed with only difference being that the Petitioners there belonged to the Telecommunication Cadre whereas the Petitioners here are in the Motor Mechanic („MM) Cadre.

6. The basic issue is grant of the ACP benefits to the Petitioners. The Petitioners in Surjeet Singh v. Union of India (supra) were seeking parity with 61 other Petitioners in W.P.(C) No.7393/2011 (Naresh Kumar v Union of India) in whose favour a judgment dated 10th October, 2011 was delivered by this Court. As noticed in paragraph 6 of the Court s order in Surjeet Singh v. Union of India (supra), the Respondents in 2007 granted the first financial upgradation under the ACP Scheme in the scale of Rs.4000-100-6000. However, certain other similarly situated employees in the same cadre were granted the first ACP in the pay scale of Rs.5500-9000 and the second in the pay scale of 6500-10500. After orders were passed by the several High Courts, the said anomaly was rectified.

7. In Naresh Kumar v. Union of India (supra), this Court directed the Respondents that they should apply the same yardstick to similarly placed employees. It is the creation of the intermediary rank of ASI with effect from 23rd January, 2007 that delayed the grant of ACP to the Head Constables (HCs) of the Tele Communication Cadre. It is this anomaly that was sought to be rectified by the Court when it decided Surjeet Singh v. Union of India (supra).

8. As far as the present Petitioners are concerned, they too were sought to be denied the ACP on account of the creation of intermediary cadre of ASI, which did not exist at the time of their recruitment in the service. They too are aggrieved by the grant of ACP in the pay scale of Rs.4000-6000 and not in the pay scale of Rs.5500-9000 which was the next higher pay scale on the day they became eligible for the ACP as per the existing hierarchy. With the factual situation being more or less similar, the Court has no hesitation in granting the reliefs as prayed for by the Petitioners by following the decision in Surjeet Singh v. Union of India (supra).

9. Accordingly, directions are issued to the Respondents to grant each of the Petitioners the benefit of the ACP, 1999 in the pay scale of Rs.5500-9000 from the date they completed 12 years of service

as Head Constables and became entitled for the grant of the next higher grade in accordance with the existing hierarchy in their cadre/category to the post. The Respondents will now calculate the differential emoluments, including salary, and pay the Petitioners the arrears within a period of eight (8) weeks from today

10. The petition is allowed in above terms.

S.MURALIDHAR, J SANJEEV NARULA, J FEBRUARY 27, 2019 rd