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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1229/2025, CM APPL. 6027/2025 & CM APPL. 6028/2025
UNION OF INDIA & ANR.Petitioners
Through: Ms. Arunima Dwivedi, CGSC
with Ms. Pinky Pawar, Ms. Kritika Sharma
and Mr. Amit Dutta, Advs.

versus

CAPT A M SUREJ RETDRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

% **ORDER**
31.01.2025

CM APPL. 6028/2025 [Exemption]

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 1229/2025 & CM APPL. 6027/2025 [Stay]

3. The respondent is an ex-serviceman who was recruited as a Short Service Commissioned Officer¹ in the Indian Army on 17 March 1978. On his own request, he retired on 14 January 1985.
4. Thereafter, the respondent joined the Office of the Directorate General of Light Houses & Light Ships², Ministry of Ports, Shipping

¹ "SSCO" hereinafter

² "DGLHLS" hereinafter



and Waterways, as Executive Engineer (Civil).

5. The dispute in controversy pertains to fixation of the respondent's pay and allowance in the post of Executive Engineer (Civil).

6. The respondent seeks protection of the last pay drawn by him in the Indian Army as SSCO, before joining the DGLHLS as Executive Engineer (Civil). Essentially, the respondent's case is that though he was given six advance increments when he joined as Executive Engineer (Civil) in the DGLHLS, these increments ought to have been reckoned with respect to the last pay drawn as SSCO, and not with reference to the minimum of the initial basic pay of the post of Executive Engineer (Civil) held by him in the DGLHLS.

7. We have perused the material on record and the impugned judgment passed by the Central Administrative Tribunal³. We are unable, *prima facie*, to find any rule or regulation on the basis of which the respondent can seek protection of the last pay drawn by him as SSCO in the Indian Army. In fact, the applicable provision of the CCS (Fixation of Pay of Re-Employed Pensioners) Orders, 1986, only stipulates that the officers should be granted advance increments on a basic pay equal to or higher than the minimum of scale attached to the post in which they are employed – which, obviously, is the post held by him in the DGLHLS. The provision further requires that the pay so fixed after addition of increments *would not exceed* the basic pay last drawn by the officer in the SSCO.

³ "Tribunal" hereinafter



8. *Prima facie*, therefore, far from protecting the basic pay drawn by the officer as SSCO, the rule requires that the pay drawn by him in the new post along with the additional increments, should not exceed the basic pay drawn by the officer in the SSCO.

9. In that view of the matter, the sustainability of the impugned judgment passed by the Tribunal appears to be arguable.

10. In the circumstances, issue notice to show cause to why rule *nisi* be not issued.

11. Notice be also issued on CM Appl. 6027/2025.

12. Notice be served by all modes including, additionally, *dasti*, as well as through learned Counsel who appeared on his behalf before the Tribunal.

13. Counter affidavit, if any, be filed within four weeks with advance copy to learned Counsel for the petitioner who may file rejoinder thereto within four weeks thereof.

14. Till the next date of hearing, there shall be an interim stay of the impugned passed by the Tribunal.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 31, 2025

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[Click here to check corrigendum, if any](#)