



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

% Judgment reserved on: 12.03.2026
Judgment delivered on: 25.03.2026
Judgment uploaded on: As per Digital Signature~

+ **W.P.(C) 6749/2025 & CM APPL. 74865/2025, CM APPL. 14873/2026**

LATE ASSISTANT COMMANDANT M.K. BHATNAGAR
(EMERGENCY COMMISSIONED OFFICER) THROUGH
HIS WIDOW NEELIMA BHATNAGARPetitioner
versus
PRINCIPAL CHIEF CONTROLLER ACCOUNT
MINISTRY OF HOME AFFAIRS & ORS.Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Abhas Kumar, Mr. Umesh Kumar
Singh, Advs.

For the Respondents : Mr. Jagdish Chandra CGSC, Ms. Maanya
Saxena, Mr Sujeet Chaudhary, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

1. This petition has been filed by the petitioner with the following prayers:-

“A. Issue a writ in nature of mandamus or issuance of any other appropriate writ, order or direction, directing Respondents to fix and revise extraordinary family pension of



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the petitioners with effect from 01.01.2016 under 7th Central Pay Commission and based on National Pay Fixation on 3 increments to the minimum of corresponding Pay Level 10, 56100-177500 Pay Matrix under 7th CPC.

B. Directing the Respondents to revise the pay of the Petitioner by notionally fixing his pay in the pay matrix (as per 7th CPC) in the level corresponding to his pay in the Pay Scale/Pay Band and Grade Pay at which he retired/died. Notional Pay fixation shall be done under each intervening Pay Commission strictly based on the pay fixation formula approved for the purpose.

C. Directing the Respondents to make correction in pay fixation of Late Shri M.K. Bhatnagar as Pay Fixation Rules 2008 applicable w.e.f. 01.01.2016

D. Any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the present case may also be issued.

E. Cost of the petition make kindly be awarded favour of the petitioner.”

2. In effect, the case of the petitioner is that the respondents should fix and revise the Extraordinary Family Pension (EFP) payable to her with effect from 01.01.2016 under the 7th Central Pay Commission (CPC) by taking three increments into consideration, to the minimum of corresponding Pay Level-10 (i.e. Rs.56100-177500 pay matrix under the 7th CPC) and pay the same.

3. The facts of the case are that the late husband of the petitioner was appointed as Assistant Commandant in the BSF on 01.06.1969. He expired while on duty in Srinagar on 01.06.1972. The pay that was last drawn by late husband of the petitioner was Rs.710+120+40+30, in the pay scale of Rs.



630-10-950 from 22.06.1966.

4. Pursuant to the death of the husband, the petitioner, namely, Neelima Bhatnagar was being paid the EFP from time to time. The case of the petitioner is that the EFP was fixed by the Account Officer, PAD, BSF at Rs.33,6660/- with effect from 01.01.2016 being 60% of minimum of corresponding pay scale of Assistant Commandant Rs.56100- 177500/- at Pay Level-10. It is her case that, she should be paid revised pension by adding three increments to the minimum of the corresponding Pay Level-10, i.e. Rs.56100-177500, pay matrix under the 7th CPC i.e and fix the pay at Rs. 63,100/- w.e.f. 01.01.2016. This according to her is because of the fact that her husband while in service was granted three increments on 01.06.1970, 01.06.1971 and 01.06.1972, respectively.

5. The issue that falls for consideration is in a very narrow compass, inasmuch, whether the instructions issued by the Government of India, particularly Table No.32 (as relied by the petitioner) or Table No.31 (as relied by the respondents) of the OM dated 06.07.2016, which shall govern the pension of the petitioner. For the sake of clarity, we shall reproduce Table No.31 :-

Table No.31

Scale of Pay/Pay in the Pay Band & Grade Pay at the time of retirement

From 01.01.1986 to 31.12.1995	2200-75-2800-100-4000
From 01.01.1996 to 31.12.2005	8000-275-13500
From 01.01.2006 to 31.12.2015	15600-39100 GP 5400
Corresponding Level w.e.f. 01.01.2016	Level-10 (56100-177500)

Basic Pay From 01.01.1986 to 31.12.1995	Basic Pay From 01.01.1996 to 31.12.2005	Basic Pay from 01.01.2006 to 31.12.2015	Pay Range for pensioners retired during 01.01.2006 to 31.12.2015		Notional Pay as on 01.01.2016	Revised Pension / Enhanced Family pension (if applicable) w.e.f.01.01.2016	Revised Family Pension w.e.f. 01.01.2016
			Minimum	Maximum			



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2200	8000	21000	-	21820	56100	28050	16830
2275	8000	21000	-	21820	56100	28050	16830
2350	8000	21000	-	21820	56100	28050	16830
2425	8275	21000	-	21820	56100	28050	16830
2500	8275	21000	-	21820	56100	28050	16830
2575	8275	21000	-	21820	56100	28050	16830
2650	8500	21310	-	21820	56100	28050	16830
XXX			XXX			XXX	

6. We shall also reproduce Table No.32 on which reliance has been placed by the petitioner :-

Table No.32

Scale of Pay/Pay in the Pay Band & Grade Pay at the time of retirement

From 01.01.1986 to 31.12.1995	2630
From 01.01.1996 to 31.12.2005	9000
From 01.01.2006 to 31.12.2015	15600-39100 GP 5400
Corresponding Level w.e.f. 01.01.2016	Level-10 (56100-177500)

Basic Pay From 01.01.1986 to 31.12.1995	Basic Pay From 01.01.1996 to 31.12.2005	Basic Pay from 01.01.2006 to 31.12.2015	Pay Range for pensioners retired during 01.01.2006 to 31.12.2015		Notional Pay as on 01.01.2016	Revised Pension / Enhanced Family pension (if applicable) w.e.f.01.01.2016	Revised Family Pension w.e.f. 01.01.2016
			Minimum	Maximum			
			-	21820	56100	28050	16830
2630	9000	22140	21830	22490	57800	28900	17340
2350	8000	21000	22500	23150	59500	29750	17850
2425	8275	21000	23160	23850	61300	30650	18390
2500	8275	21000	23860	24550	63100	31550	18930
2575	8275	21000	24560	25290	65000	32500	19500
XXX			XXX			XXX	

7. During the course of hearing, our attention has been drawn by the learned counsel for the petitioner to 'Nabhi's Compilation of Central Civil Services Extraordinary Pension Rules along with Government of India Decisions as per 7th Pay Commission Acceptance Orders', the relevant part is reproduced as under:-

“(2) Special Benefits in cases of Death and Disability in Service - Revision of Disability Pension/Family Pension under



CCS (EOP) Rules of Pre-2016 Disability Pensioners/ Family Pensioners in Implementation of Recommendations of 7th Central Pay Commission

The undersigned is directed to say that orders were issued vide D/o. P&PW's OM No. 38/37/2016-P&PW(A)(ii), dated 04.08.2016 (For text of these orders, refer Nabhi's COMPILATION OF 7TH PAY COMMISSION ACCEPTANCE ORDERS FOR PENSIONERS.) for revision of pension/family pension of pre-2016 pensioners/ family pensioners, including those drawing pension/family pension under CCS (EOP) Rules. In terms of the aforesaid OM, the revised disability pension/family pension under CCS (EOP) w.e.f. 01.01.2016 was required to be determined by multiplying the disability pension/ family pension, as had been fixed at the time of implementation of the 6th Central Pay Commission recommendations, by 2.57.

2. Subsequently, vide this Department's OM No. 38/37/2016- P&PW(A), dated 12th May, 2017 it was decided that the revised pension/family pension w.e.f. 01.01.2016 in respect of all Central civil pensioners/family pensioners, including CAPF's who retired/ died prior to 01.01.2016 and drawing pension/family pension under CCS (Pension) Rules may be revised by notionally fixing their pay in the pay matrix recommended by 7th CPC in the level corresponding to the pay in the pay scale/pay band and grade pay at which they retired/died. This will be done by notional pay fixation under each intervening Pay Commission based on the Formula for revision of pay. While fixing pay on notional basis, the pay fixation formulae approved by the Government and other relevant instructions on the subject in force at the relevant time shall be strictly followed.

(Emphasis supplied)

8. On the other hand, Mr. Jagdish Chandra, learned CGSC has referred to the OM's dated 06.07.2017 and 12.10.2017, issued by the Ministry of Personnel, P.G. and Pensions, Department of Pension & Pensioners'



Welfare. That apart, he has also relied upon the OM dated 03.10.1997. He has also referred to a note submitted by him which give details of the fixation of pension of the petitioner from time to time, in the following manner:-

“Sh. M K Bhatnagar, Assistant Commandant, (IRLA No. 1197), the Late husband of Smt Neelima Bhatnagar was appointed in the BSF on 01.06.1969 and his pay was correctly fixed at Basic Pay of Rs. 450/- in the pay scale of Assistant Commandant (325-25-600-35-670-EB-35-950), after granting the benefit of five advance increments for his completed commissioned service of five years from 09.02.1964 to 31.05.1969. As per the last Pay Certificate (LPC) dated 18.07.1972 issued by PAD BSF New Delhi. Shri Bhatnagar drawing a pay of Rs. 875/- per month as of 01.06.1972.

3. On 1st June' 1972, Sh. M K Bhatnagar, AC was detailed for liaison duty with 151 Air Defence (AD) Regiment, at Srinagar (Kashmir). While returning from the said duty, the Jeep in which he was travelling, met with an accident and he sustained head injuries and succumbed to the injuries on the same day.

4. His pay was fixed after giving three notional increment i.e., for the year 01.06.1970, 01.06.1971 and 01.06.1972 which comes to:-

- Rs.450+25 =475/- as on 01.06.1970
- Rs.475+25 =500/- as on 01.06.1971
- Rs.500+25 =525/- as on 01.06.1972

➤ Pay Fixation as on 01.01.1973 : as Per New Pay Scale According to 3rd CPC

Old pay scale : 325-25-600-35-EB-670-EB-35-950(950)
Old Pay as on 01.01.1973 : Rs.525/-+ special pay of Rs. 150/-

New scale on 01.01.1973 : 700-40-900-40-1100-50-1300
Pay Fixation as per 3rd CPC

- i) Basic Pay : Rs.525/-
- ii) Special Pay : Rs.150/-



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iii)	DA on both i& ii	:	Rs. 120/-
iv)	IR	:	Rs.60/-
v)	5% fitment of Basic	:	Rs.34/-
	Pay + special pay		
	Total	:	Rs.889/-

Pay re-fixed as per 3rd CPC w.e.f. 01.01.1973 @Rs.900/- (being next fitment in the scale 700-1300)

Pay Fixation as per 4th CPC – 01.01.1989 : (Pay scale 2200-75-2800-EB-100-4000)

➤ Pay fixed on 01.01.1989

(i)	Basic Pay	:	Rs.900/-
(ii)	DA	:	Rs.1342/-
(iii)	IR(i&ii)	:	Rs.160/-
(iv)	20% of BasicPay	:	Rs.180/-
	Total	:	Rs.2582/-

Pay re-fixed as per 4th w.e.f. 01.01.1986 @ Rs.2650/- (being next fitment in the scale 2200-4000)

➤ PENSION (EOP) revised as per 4th CPC w.e.f. 01.01.1986 :-

$$\frac{2650 \times 60}{100} = \text{Rs.1590/-}$$

Pay fixation as per 5th CPC on 01.01.1996 – Rs.8000/- (Minimum pay)

EOP admissible as on 01.01.1996 i.e 5th CPC in the pay scale of

➤ Rs.8000-275-13,500 :-

➤ In 5th CPC minimum Family pension fixed as per rule Rs 8000

$$\frac{8000 \times 60}{100} = \text{Rs.4800/-}$$

➤ Pay fixation as per 6th CPC on 01.01.2006 – Rs.15600 + 5400 – (Minimum pay)

➤ Pay structure i.e. pay band & grade pay as per 6th CPC

	:	15,600-39, 100+ 5400 Grade Pay (GP)
Revised pay structure	:	15,600-39, 100+ 5400 Grade Pay (GP)
EOP w.e.f. 01.01.2006	:	(15,600+ 5400) = $\frac{21000 \times 60\%}{100}$ 12,600/-

EOP fixed w.e.f. 01.01.2006 @ Rs. 12,600/-

➤ Pay structure as per 7th CPC i.e. corresponding Pay Level -10 (56,100-1,77,500)

➤ Pay fixation as per 7th CPC on 01.01.2016 - Rs. 56100/- (Minimum pay)



➤ EOP of the petitioner revised at minimum pay level 10 i.e. Rs.56,100/- @ 60%

➤ Revised pay structure : Pay Level -10 (56,100- 1,77,500)

EOP fixed w.e.f. 01.01.2016: $(56,100 + 1,77,500) = \frac{56,100 \times 60\%}{100} = 33,600/-$

As per 7th CPC (EOP fixed w.e.f. 01.01.2016 @ Rs.33,600/-) in accordance with DoP & PW OM dated 06th July' 2017 mentioned at table no.31 i.e. 60% of minimum pay @ Rs.56,100/- which comes to Rs.33,600/-“

(Emphasis supplied)

9. The only difference in the contentions of the petitioner and the respondents is that, according to the petitioner her pension should be fixed at Rs.61,300/-, whereas, as per the respondents, the computation of EFP is correct i.e., Rs.56,100/-. We have already noted the submission made by Mr. Chandra that the notional pay should be arrived at by taking the Table No.31, into consideration, wherein, the notional pay as on 01.01.2016 is Rs.56,100/-. Whereas, the case of the petitioner is that the notional pay as on 01.01.2016, in terms of Table No.32, should be Rs.61,300/-, after giving the benefit of three increments.

10. On this, Mr. Chandra has relied upon the OM dated 03.10.1997, wherein, under the 5th CPC, revised pay scales have been depicted at Serial Nos.15 and 16 as under:-

<u>“EXISTING SCALES OF PAY</u>	<u>GRADES</u>	<u>REVISED SCALE OF PAY</u>
15. 2200-75-2800-100-4000 2300-100-2800	S – 15	8000-275-13500
16. 2630/- FIXED	S -16	9000/- fixed”



11. At Serial No.16, the pre-revised pay was Rs.2630/- revised to Rs. 9000/-. Whereas, Serial No.15 of pre-revised scale was Rs.2200-4000, which have been revised to Rs.8000-275-13500 in the 5th CPC. If the Tables are seen in the above perspective, it becomes clear that, while granting the pension to the petitioner under 5th CPC, and 6th CPC, the following pay scales were considered to fix the pension :-

Table No.31
Scale of Pay/Pay in the Pay Band & Grade Pay at the time of retirement

From 01.01.1996 to 31.12.2005	8000-275-13500
From 01.01.2006 to 31.12.2015	15600-39100 GP 5400
Corresponding Level w.e.f. 01.01.2016	Level-10 (56100-177500)

12. The notional pay being the minimum pay, the minimum pay scale in 7th CPC is Rs.56,100/-, which was considered to fix pension. But, the position is different under Table No.32; it depicts the pay under the 5th CPC, and 6th CPC as Rs.9000, and Rs.22140/- respectively.

13. Table No.32 has no applicability in the case in hand, as concedingly, under the 5th CPC and even under the 6th CPC, the notional pay (minimum of scale) arrived at is Rs.8000/- & Rs.15,600/-, respectively, which became the basis for fixation of the petitioner's pension. Hence, the notional pay (minimum) under the 7th CPC is Rs.56,100 /- (as per Table-31). The notional pay, in the case of the petitioner while granting EFP under 5th and 6th CPC was never Rs.9000 and Rs.22140/-, and therefore, Table No. 32 is inapplicable. The case of the respondents is that the notional pay as on 01.01.2016 being the minimum of pay scale Rs.56100-177500, the pension was fixed at Rs.33,600 /-, in the following manner:-

$$\frac{56,100 \times 60}{100} = 33,600/-$$



14. We find no illegality in the computation and payment of EFP to the petitioner w.e.f. 01.01.2016.

15. But we must state that, though the petitioner in this petition has sought refixation of EFP w.e.f. 01.01.2016, in the manner we have stated above, but while arguing the case, the counsel for the petitioner has contested the fixation of EFP w.e.f. 01.01.1996 and 01.01.2006 by contending that, though it was fixed by considering the minimum pay of Rs. 8000 (w.e.f. 01.01.1996) but the same should have been Rs. 8550; and similarly minimum pay w.e.f. 01.01.2006 should have been Rs. 21310/-. This according to him is because, if the pay as fixed on 01.01.1986 is Rs. 2650/-, then necessarily the pay as on 01.01.1996 and 01.01.2006 shall be Rs. 8550/- and Rs. 21310/-, respectively, as per Table 31. This submission is appealing.

16. Admittedly when the minimum pay as per the respondents was fixed at Rs. 2650/- as per the Table 31, the pay w.e.f. 01.01.1996 equivalent to Rs. 2650/- is Rs. 8550/- and Rs. 21310/- w.e.f. 01.01.2006, respectively. The determination of EFP by considering Rs. 8550/- and Rs. 21310/- shall have the effect of granting the benefit of three increments while determining EFP. We may state here that the pay w.e.f. 01.01.2016 shall remain the same, as has been considered by the respondents while fixing the EFP i.e., Rs. 56100/-. So in that sense, there should not be any change/difference in EFP w.e.f. 01.01.2016. It follows, the petitioner shall be entitled to the revised EFP w.e.f. 01.01.1996 and 01.01.2006 based on calculations by treating the pay as Rs.8550/- (w.e.f. 01.01.1996) and



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Rs.21310/- (w.e.f.01.01.2006).

17. In this regard, we may refer to the judgment of the Supreme Court in the case of ***Union of India through its Secretary & Ors. v. SGT Girish Kumar and Ors. Etc., 2026 INSC 149*** wherein the Supreme Court in paragraphs 19 & 20 has held as under:-

“19. The order dated 18.04.2016 was a conscious policy determination taken with full financial concurrence. Thus, where the State itself, by a conscious policy decision, has determined that arrears of disability pension are payable from a specified cut off date, it is not open to it to subsequently resile and contend that such arrears ought to be confined to a period of three years preceding the claim. To permit such a course, would amount to acknowledging the right in principle while denying its substantive content in effect. Any such deprivation of accrued arrears which has become due to ex-servicemen in view of judicial determination as well as policy decision taken by the Union of India itself, would constitute deprivation of property and would amount to infraction of Article 300A of the Constitution of India.

20. This Court has, in a consistent line of decisions, K.J.S. Bhuttar v. Union of India & Anr., (supra); Davinder Singh v. Union of India & Ors. (supra); Madan Prasad Sinha v. Union of India & Ors., (supra); Piyush Bahuguna (Order dated 25.03.2022 passed in Diary No.10713/2021) and Bijender Singh v. Union of India (supra), recognised that right to receive disability pension is a valuable right and once found due, the benefit of the same has to be given from the date it became due. The same cannot be curtailed by restricting the benefit to a period of three years preceding the filing of the original application. In the



absence of any compelling reason to take a different view, we find no justification to depart from the view consistently taken by this Court.”

(emphasis supplied)

18. Though a reference has been made by the learned counsel for the petitioner on the judgment of a Coordinate Bench of this Court in the case of **Ram Phal v. Union Of India & Ors., 2016:DHC:5502-DB**, we find the issue that falls for consideration in this petition is not the same as decided by the Coordinate Bench.

19. The arrears of difference of EFP w.e.f. 01.01.1996 and 01.01.2006 shall be paid to the petitioner with interest @ 6% per annum from the respective years within twelve weeks from the date of receipt of copy of this order. The petition is disposed of.

20. The pending applications are disposed of as infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

MARCH 25, 2026

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