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

**Date of Decision: 25<sup>th</sup> February, 2026**

+ W.P.(C) 7659/2011

SURJIT SINGH BHATOJA AND ORS

.....Petitioners

versus

UOI AND ORS

.....Respondents

With

W.P.(C) 3365/2012, W.P.(C) 9195/2015, W.P.(C) 13584/2019 &  
W.P.(C) 12187/2021

**For Petitioners:** Mr. Naresh Kaushik, Senior Advocate with Mr. Ritambra Kaushik, Mr. Vardhman Kaushik, Mr. Anand Singh, Ms. Saumya, Mr. Archit Gautam, Advocates in item no. 10 & 11.  
Mr. Ashish Aggarwal, Mr. Anand Aggarwal, Mr. O.P. FAizi, Ms. Lisha Arora, Ms. Nishtha Verma, Ms. Tanya Jain, Mr. Himanshu Singh, Ms. Anjali Kashyap, Ms. Ishita, Advocates in item no. 12.  
Ms. Arati Mahajan Shedha, Ms. Shilpa Chaurasia, Ms. Jyotsna Shandilya, Advocates in item no. 13.

**For Respondents:** Mr. Sushil Pandey, SPC with Mr. Aman Kr. Pandey, Advocates for UOI in item no. 10.  
Mr. Manoj, Ms. Aparna Sinha, Advocates with Mr. M.M. Zakkiruddeen GM-L in items No. 10 & 11.  
Mr. Saroj Bidawat, SPC for R-1 in item no. 11, 12 & 13.  
Mr. Vivek Goyal, CGSPC with Mr. Gokul Sharma, Advocate for R-2 in item no. 12.  
Mr. Manoj, Ms. Aparna Sinha, Advocates for R-2 in item No. 12.



Mr. Manoj, Ms. Aparna Sinha, Advocates for R-2 to 6 in item No. 13.

Mr. Manoj, Ms. Aparna Sinha, Advocates in item No. 12.

Mr. Vivek Goyal, CGSPC with Mr. Gokul Sharma, Advocate for R-1 in item no. 13.

**CORAM:  
HON'BLE MR. JUSTICE SANJEEV NARULA**

**JUDGMENT**

**SANJEEV NARULA, J. (Oral):**

1. The dispute concerns two pay regimes applied in Central Public Sector Enterprises: the Central Dearness Allowance<sup>1</sup> pattern, historically aligned to Central Government scales, and the Industrial Dearness Allowance<sup>2</sup> pattern, aligned to the industrial DA formula. In Food Corporation of India (Respondent No. 2), a sizeable group of officers appointed prior to 1<sup>st</sup> January, 1989 continued on the CDA pattern for years, even after receiving promotions, and retired with pay and terminal benefits settled on that basis. The position was materially altered with the issuance of the DPE Office Memorandum dated 10<sup>th</sup> August, 2009 (clarifying that “appointment” includes “promotion”), followed by the DPE direction dated 12<sup>th</sup> July, 2010 mandating retrospective application, and culminating in FCI Circular dated 30<sup>th</sup> September, 2011, which directed retrospective conversion of such officers from the CDA pattern to the IDA pattern with effect from the date of their first promotion on or after 1<sup>st</sup> January, 1989,

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<sup>1</sup> “CDA”

<sup>2</sup> “IDA”



along with consequential re-fixation. This exercise unsettled the long-standing pay position: some retirees were exposed to alleged “excess” payments and recoveries, while others, on the same re-fixation, asserted entitlement to arrears and enhanced gratuity.

2. These five writ petitions represent two sets of retired officers pulling in opposite directions: one set challenges retrospective conversion from CDA to IDA, insofar as it operates to their detriment and is accompanied by recovery or withholding; the other seeks implementation of the very same conversion on the footing that the re-fixation yields a financial upside, and complains that FCI has proceeded with recoveries but has withheld payments by relying on the later circulars dated 24<sup>th</sup> May, 2013 and 5<sup>th</sup> January, 2015.

3. The factual background traces its origins to the Supreme Court judgment dated 3<sup>rd</sup> May, 1990 and the implementation instructions issued thereafter. Given the common facts, the same instruments, and the shared interim history forming the backdrop to all five petitions, and since directions in one set inevitably bear upon the other, a composite adjudication is necessary to avoid inconsistent outcomes and to ensure a workable, even-handed relief.

***Parties and the two sets of Petitioners***

4. W.P.(C) 7659/2011 has been filed by a set of retired FCI executives who entered service prior to 1<sup>st</sup> January, 1989 under CDA terms and continued on the CDA pattern through promotions. Herein, Petitioner No. 2, Mr. Surender Singh, though appointed on 27<sup>th</sup> December, 1989, is part of the same cohort, having also been continued on the CDA pattern. The Petitioners contend that the circular dated 30<sup>th</sup> September, 2011 and the DPE



O.M. dated 10<sup>th</sup> August, 2009 cannot be applied retrospectively to their detriment.

5. W.P.(C) 3365/2012 is filed by two executives of FCI, namely, Mr. Prit Pal Singh and Mr. Madan Lal Sehgal. The Petitioners were appointed prior to 1<sup>st</sup> January, 1989 on the CDA pattern and continued thereon despite subsequent promotions. Mr. Prit Pal Singh, appointed in 1986, superannuated in November, 2014, while Mr. Madan Lal Sehgal, appointed in 1976, superannuated on 31<sup>st</sup> October, 2011. Their petition also assails the unilateral retrospective conversion from CDA to IDA and additionally seeks release of retiral dues, including salary and leave encashment, allegedly withheld while implementing the impugned conversion

6. W.P.(C) 9195/2015 is filed by a retired executive who seeks the opposite relief. He asserts that, as per the DPE O.M. dated 10<sup>th</sup> August, 2009 and the FCI circular dated 30<sup>th</sup> September, 2011, his pay ought to be re-fixed in the IDA pattern from the date of his first promotion after 1<sup>st</sup> January, 1989 and he is entitled to payment of the differential amount with interest. His principal grievance is “selective implementation”, namely, that the Corporation has proceeded with recoveries or implemented conversion in some cases but has withheld payments in cases where re-fixation results in a payable amount in terms of the impugned circulars dated 24<sup>th</sup> May, 2013 and 5<sup>th</sup> January, 2015.

7. W.P.(C) 13584/2019 is filed by four retired AGMs (Accounts/Vigilance) from the North Zone, who retired between 31<sup>st</sup> August, 2007 and 31<sup>st</sup> January, 2009. They seek arrears and differential gratuity on the footing that, pursuant to the circular dated 30<sup>th</sup> September, 2011, their pay was in fact re-fixed under IDA by formal pay-fixation orders



in early 2012. In two cases, sanction orders for differential gratuity were also issued, yet payments were not released. They allege discrimination by pointing to comparators in the same zone who received similar payments in May, 2012. They also challenge the “recovery-only/payment-kept-pending” posture under the circular dated 24<sup>th</sup> May, 2013 and the reiteration dated 5<sup>th</sup> January, 2015.

8. The petitioners in W.P.(C) 12187/2019 also claim to be beneficiaries of the conversion regime flowing from the DPE Office Memorandum dated 10<sup>th</sup> August, 2009 and the FCI circular dated 30<sup>th</sup> September, 2011, and seek its enforcement with IDA fixation from the date of first promotion on or after 1<sup>st</sup> January, 1989, along with consequential arrears. They impugn the subsequent FCI circular dated 24<sup>th</sup> May, 2013 on the ground that it effectively freezes payments in “beneficiary cases” while permitting recoveries in “recovery cases”, resulting in a one-sided implementation of the same framework. The Petitioners emphasise that they are willing to furnish undertakings to refund/adjust any sums released to them if the circular dated 30<sup>th</sup> September, 2011 is ultimately set aside in the pending challenges. On their case, it is contended that following vacation of the interim stay on 22<sup>nd</sup> February, 2013 by this Court, there was no legal basis to continue withholding their dues.

***Background in sequence***

9. The present controversy is not a stand-alone service dispute. It is the downstream consequence of a long-running policy shift in CPSE pay regimes and the litigation that accompanied it.

10. The Union of India had, in the 1980s, moved to phase out CDA pattern in CPSEs and to place their employees on IDA pattern. That policy



move travelled through multiple proceedings and, during the pendency of the litigation, a High Power Pay Committee<sup>3</sup> was constituted under the aegis of the Supreme Court to examine the pay and allowance structure of CPSE employees then governed by the CDA pattern. The HPPC submitted its final report on 2<sup>nd</sup> November, 1988, and a batch of matters culminated in a common judgment of the Supreme Court dated 3<sup>rd</sup> May, 1990.

11. The directions issued on 3<sup>rd</sup> May, 1990 provide the normative starting point for the present case. They draw a clear cut-off at 1<sup>st</sup> January, 1989 and, for employees already on the CDA pattern before that date, preserve an element of choice. The Supreme Court, *inter alia*, directed that: (i) the HPPC recommendations on revised pay scales and DA would be extended to those employees who were appointed with specific terms providing for CDA and those who, by rules framed by the public enterprise, were being paid CDA; (ii) employees appointed on or after 1<sup>st</sup> January, 1989 would be governed by such pay scales and allowances as may be decided by the Government in its discretion; and (iii) those covered would “continue to enjoy the option” to switch over to the IDA pattern on a voluntary basis.

12. Pursuant to the Supreme Court judgment dated 3<sup>rd</sup> May, 1990, the Department of Public Enterprises (“DPE”) issued an Office Memorandum dated 12<sup>th</sup> June, 1990 laying down detailed implementation instructions, including the classification of categories and the manner in which the switch-over to IDA was to be operationalised.

13. In the case of FCI, it is pleaded that the option contemplated under the Supreme Court framework was not made available in the manner required. A contempt petition was therefore carried to the Supreme Court, and the

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<sup>3</sup> “HPPC”



contempt proceedings were disposed of on 25<sup>th</sup> January, 1993 with directions that the option to switch to IDA be opened to FCI employees for a period of six months.

14. What followed thereafter is equally significant for present purposes. For many years, a substantial class of FCI executives who had entered service prior to 1<sup>st</sup> January, 1989 continued on the CDA pattern, even while they received promotions after 1<sup>st</sup> January, 1989. The same position applied to Mr. Surinder Singh (Petitioner No. 2 in W.P.(C) 7659/2011), who, although appointed after the cut-off date of 1<sup>st</sup> January, 1989 (i.e., on 27<sup>th</sup> December, 1989), nevertheless continued to be governed by the CDA pattern. That long continuation is not a peripheral assertion. It is part of the admitted factual landscape. FCI itself pleads that it had not sought, and did not have, a general clarification treating “promotion” as falling within “appointment” for this purpose, and hence CDA officers continued to be promoted on CDA.

15. The position changed with the DPE Office Memorandum dated 10<sup>th</sup> August, 2009. By that communication, DPE clarified that the expression “appointment” is wide enough to include “promotion” as well. Thereafter, by Office Memorandum dated 12<sup>th</sup> July, 2010, DPE further clarified that the above instructions were to apply retrospectively, and this position was reiterated again in September, 2011.

16. In that backdrop, FCI issued Circular No. WR-09-2011-15 dated 30<sup>th</sup> September, 2011 titled “*Shifting of employees on CDA Pattern Scales of Pay to IDA Pattern Scales of pay w.e.f. the date of their first promotion after 01.01.1989*”. The circular decided to shift CDA employees to IDA retrospectively from the date of their first promotion on or after 1<sup>st</sup> January,



1989; prescribed the fitment methodology; applied IDA allowances from the said date; denied stepping up of pay at par with juniors already on IDA; and contemplated adjustment and recovery of “excess” payments, including from arrears and, where necessary, from retiral dues.

17. Predictably, the circular dated 30<sup>th</sup> September, 2011 triggered litigation. Interim orders followed in the leading matters: on 15<sup>th</sup> December, 2011, recoveries from the pay of the Petitioners in W.P.(C) 7659/2011 were restrained; on 29<sup>th</sup> May, 2012, in W.P.(C) 3365/2012 the DPE O.M. dated 10<sup>th</sup> August, 2009 and the FCI circular dated 30<sup>th</sup> September, 2011 were stayed; and on 22<sup>nd</sup> February, 2013, the Court declined to continue an interim shield against recovery where amounts had been received in excess, recording that entitlement would be examined at final disposal, and observing that the employer could recover amounts legally found not due.

18. After the order dated 22<sup>nd</sup> February, 2013, FCI issued Circular dated 24<sup>th</sup> May, 2013 stating that, “to safeguard the financial interests of the Corporation”, recoveries would be made from retiring employees/officers from whom it was recoverable, while “other cases” would be kept pending till further court orders. The same approach was reiterated by communication dated 5<sup>th</sup> January, 2015. It is this later administrative posture that, in large measure, explains why one set of retirees complains of recoveries and withholdings, while another complains of non-release of amounts said to be payable on re-fixation.

***Submissions, in outline***

19. The Petitioners in W.P.(C) 7659/2011 and W.P.(C) 3365/2012, all of whom are retired, assail the DPE O.M. dated 10<sup>th</sup> August, 2009 and the FCI circular dated 30<sup>th</sup> September, 2011 on the footing that they upset a long-



settled service position. Their case is that they entered service under the CDA pattern prior to 1<sup>st</sup> January, 1989, continued on that regime through promotions for years, and retired on that basis. A retrospective conversion, decades later, is said to rewrite their service conditions after the event. They place emphasis on the Supreme Court judgment dated 3<sup>rd</sup> May, 1990, contending that it preserved an element of choice for pre-1<sup>st</sup> January, 1989 incumbents and that such protection cannot be diluted by a later executive “clarification” equating promotion with appointment. They also submit that recoveries from retired employees, and withholdings from retiral benefits founded on such retrospective re-fixation, are impermissible, relying particularly on *State of Punjab & Ors. v. Rafiq Masih (White Washer) & Ors.*<sup>4</sup> On their case, the impugned action is arbitrary and offends Articles 14 and 16 of the Constitution.

20. The Union of India and the Department of Public Enterprises adopt a contrary interpretive stance. They rely on the Supreme Court judgment dated 3<sup>rd</sup> May, 1990, the implementation O.M. dated 12<sup>th</sup> June, 1990, and the later O.M. dated 10<sup>th</sup> August, 2009 to contend that “appointment” is wide enough to include “promotion”. On that reasoning, employees who continued on CDA despite receiving a first promotion on or after 1<sup>st</sup> January, 1989 are said to have been liable, in law, to be placed on the IDA pattern from that stage, and the subsequent steps taken by FCI are defended as an implementation of binding Government instructions.

21. FCI’s pleadings in the challenge petitions occupy a more nuanced middle ground. While the Corporation justifies the circular dated 30<sup>th</sup> September, 2011 as an act of compliance with DPE directions, it candidly

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<sup>4</sup> (2015) 4 SCC 334.



pleads that it had sought permission to apply the change prospectively and on an option basis because retrospective application could disadvantage some employees. At the same time, FCI asserts that a significant segment of officers, particularly in Categories I and II, would in fact derive financial advantage under the IDA regime, including eligibility for cafeteria-based fringe benefits. FCI thus acknowledges on record that the conversion would not operate uniformly: while some employees would gain on refixation, others could suffer a reduction.

22. W.P.(C) 9195/2015 and W.P.(C) 13584/2019 is filed by retirees who stand on the other side of that divide. They do not seek to strike down the conversion regime; rather, they challenge FCI's subsequent circulars dated 24<sup>th</sup> May, 2013 and 5<sup>th</sup> January, 2015 to the extent they effectively stalled release of amounts becoming payable upon IDA refixation. Their grievance is that FCI has operationalised the framework unevenly: recoveries have proceeded in cases where refixation yields an "excess", but payments have been withheld in cases where refixation yields a positive entitlement. They contend that the interim order dated 22<sup>nd</sup> February, 2013 did not sanction an indefinite freezing of "payment cases". In W.P.(C) 13584/2019, the submission is fortified by the fact that pay fixation orders under IDA were issued in early 2012 and, in two cases, gratuity sanction orders were also issued, yet payments were withheld for years. The Petitioners allege discrimination, arbitrariness, and a continuing illegality in withholding retiral dues, besides claiming interest for prolonged delay.

23. In W.P.(C) 12187/2019, the Petitioners also seek implementation of the circular dated 30<sup>th</sup> September, 2011 and challenge the circular dated 24<sup>th</sup> May, 2013 as an impermissible override of a circular that remains operative.



They emphasise that FCI had itself contemplated release of arrears to beneficiaries against undertakings (circular dated 7<sup>th</sup> December, 2011) and contend that the post-22<sup>nd</sup> February, 2013 internal committee route culminating in the circular dated 24<sup>th</sup> May, 2013 institutionalised a one-sided regime. They offer undertakings to secure restitution if the 30<sup>th</sup> September, 2011 circular is ultimately set aside.

24. FCI's response to this set of payment-seeker petitions is that it has no quarrel, in principle, with the circular dated 30<sup>th</sup> September, 2011; however, its hands were tied since the circular (and the underlying DPE O.M.) were under challenge in the leading petitions. It reads the order dated 22<sup>nd</sup> February, 2013 as permitting recoveries where amounts are legally found not due, while reserving questions of entitlement for final adjudication. FCI further asserts that the impugned circular dated 24<sup>th</sup> May, 2013 was issued to safeguard the Corporation's financial interests in this interregnum. It also raises a practical concern: if payments are released to retirees at this stage and the circular is ultimately set aside, recovery from retired employees may prove difficult, particularly given the Corporation's dependence on public funds.

### ***Analysis***

#### ***Issue (i): Recoveries and adverse refixation against retired employees***

25. The first set of Petitioners entered service prior to 1<sup>st</sup> January, 1989 under the CDA pattern and, as a matter of administrative practice, continued on that pattern through successive promotions. This long continuation is not a stray circumstance. It represents the service regime under which the Corporation processed promotions, fixed pay, and ultimately settled retiral dues. It is in that framework that the Petitioners organised their financial



affairs and retired.

26. The circular dated 30<sup>th</sup> September, 2011 seeks to retrospectively shift such employees to the IDA pattern from the date of their first promotion on or after 1<sup>st</sup> January, 1989 and, as a corollary, provides for adjustment of allowances and recovery of what is described as “excess” payment.

27. Even if the dispute is projected as one of correct implementation of DPE instructions, recoveries from retired employees stand on a distinct legal footing. The Supreme Court in *State of Punjab v. Rafiq Masih*, has delineated situations where recovery of amounts paid in excess would be impermissible, including recovery from retired employees and recovery after long years, in the absence of fraud or misrepresentation by the employee. The controlling rationale is not generosity but equity: once payments have been allowed to settle for long periods, coercive recovery at the fag-end of service or after retirement is treated as harsh and inequitable.

28. The Petitioners before the Court fall squarely within that protected zone. The alleged “excess”, if any, does not arise from concealment or misrepresentation by them. It arises from a belated re-fixation undertaken decades after the relevant promotions, in a regime which the employer itself did not apply contemporaneously. In such a setting, recovery is legally unsustainable.

29. Withholding of terminal benefits on the same footing is equally untenable. Retiral benefits are not held at the pleasure of the employer. Where the foundation itself is a disputed re-fixation yielding an asserted “excess”, the Corporation cannot secure itself by withholding gratuity, leave encashment or other retiral dues from retirees who did not procure the payment by misrepresentation.



30. These conclusions are sufficient to grant effective relief in W.P.(C) 7659/2011 and W.P.(C) 3365/2012, without issuing any sweeping pronouncement on the abstract interpretive debate as to whether “promotion” can be treated as “appointment” for all purposes. The determination is narrower and case-specific: in relation to these retired Petitioners, the conversion regime cannot be enforced in a manner that results in recovery or adverse financial re-fixation that rewrites settled retiral outcomes after decades.

31. This approach also sits comfortably with the Supreme Court judgment dated 3<sup>rd</sup> May, 1990. The judgment recognises the 1<sup>st</sup> January, 1989 cut-off and preserves an option for those already on the CDA pattern prior to that date. Even Mr. Surender Singh, appointed on 27<sup>th</sup> December, 1989, continued under the CDA pattern even through his first two promotions, and was sought to be shifted to the IDA pattern only by way of the subsequent retrospective re-fixation. The record further indicates that FCI itself had to be directed in contempt proceedings to open an option window in 1993. The law so declared by the Supreme Court is binding under Article 141 of the Constitution of India, and its ratio cannot be diluted, circumvented, or indirectly nullified by executive action. Against that backdrop, a forced retrospective conversion which leaves retirees worse off would offend fairness and would be arbitrary in its operation.

32. This conclusion, however, does not foreclose any pre-1<sup>st</sup> January, 1989 employee from seeking IDA benefits where that course is financially favourable. Voluntary election remains consistent with the architecture of the 1990 judgment. The relief for the first set is therefore framed as protection against adverse conversion and recovery; it does not bar IDA



refixation in an individual case where the retiree affirmatively seeks it.

Issue (ii): The “recoveries proceed, payments remain pending” posture

33. W.P.(C) 9195/2015, W.P.(C) 13584/2019 and W.P.(C) 12187/2021 bring into sharp focus an administrative asymmetry which cannot be sustained in public law. FCI has, on the one hand, proceeded to act on the conversion framework in cases where refixation yields an “excess” and recoveries are sought; on the other hand, it has withheld payments in cases where the same refixation yields a payable amount, by placing reliance on the circular dated 24<sup>th</sup> May, 2013 and the reiteration dated 5<sup>th</sup> January, 2015.

34. FCI itself does not dispute, as a matter of principle, that employees who benefit on refixation would be entitled to payment if the conversion framework is applied. Its explanation is that the circular dated 30<sup>th</sup> September, 2011 is under challenge in the leading writ petitions, and that it proceeded with recoveries after the order dated 22<sup>nd</sup> February, 2013 but kept payment cases pending to avoid restitution difficulties if the circular is ultimately set aside. That explanation may account for caution, but it cannot justify a regime that is uneven in its operation and indefinite in its duration, particularly when refixation and even sanction orders have already been issued in certain case.

35. The order dated 22<sup>nd</sup> February, 2013 cannot be read as authorising such a one-sided posture. That order dealt with interim protection against recovery and recorded that entitlement would be examined at the time of final disposal. It did not lay down a principle that recoveries may proceed but payments must remain in abeyance indefinitely. Nor did it endorse a regime in which the Corporation would apply the conversion only when it is financially beneficial to the employer but postpone its corresponding



obligations when it is beneficial to the employee.

36. A public employer, particularly a State instrumentality, is bound by the discipline of Article 14. It cannot selectively deploy a uniform scheme in a manner that operates only as a sword and never as a shield. Once FCI chooses to act upon the conversion framework in one class of cases, it must apply it even-handedly, subject always to lawful safeguards.

37. The arbitrariness is even more pronounced in W.P.(C) 13584/2019. The Petitioners have placed on record that: (i) pay fixation orders under the IDA pattern were issued for all four Petitioners in early 2012; (ii) in two cases, the competent authority also issued sanction orders for payment of differential gratuity; and (iii) RTI responses indicate that similarly placed officials in the same zone received release of pay arrears and enhanced gratuity during May, 2012. In such a factual setting, continued non-release for years, solely by invoking later internal circulars, is indefensible.

38. FCI's concern that restitution may become difficult if payments are released and the circular is later invalidated is not without substance, but it cannot justify an open-ended withholding that results in discrimination. The answer lies in a calibrated safeguard, not in denial. Where payment is directed in implementation-seeker petitions, FCI can require beneficiaries to furnish undertakings to refund/permit adjustment if, in subsequent proceedings, a competent forum holds that the amount was not payable. Such a mechanism secures the Corporation without permitting a discriminatory "recoveries only" regime.

39. Accordingly, the circulars dated 24<sup>th</sup> May, 2013 and 5<sup>th</sup> January, 2015, to the extent they are applied as a rule to allow recoveries to proceed while keeping payment cases pending, cannot be sustained. They cannot be read as



authorising “recoveries now, payments later (or never)”. Equality before law requires even-handed application of any scheme that the Corporation elects to operationalise.

40. In view of the conclusions recorded on Issue (i) and Issue (ii), nothing further remains for adjudication in these petitions except to mould relief in a manner that is workable across both sets of retirees. The directions that follow are therefore framed to (a) protect the retirees in the challenge petitions from coercive recoveries and adverse re-fixation, and (b) secure even-handed release of payments in the implementation-seeker petitions, subject to appropriate safeguards.

***Directions***

W.P.(C) 7659/2011 and W.P.(C) 3365/2012

41. These petitions are allowed in part in the following terms:

(i) No recovery shall be made from the Petitioners in these two writ petitions from their salary, pension (if any), gratuity, leave encashment or any other retiral dues, on the basis of the DPE O.M. dated 10<sup>th</sup> August, 2009, the DPE O.M. dated 12<sup>th</sup> July, 2010, and the FCI circular dated 30<sup>th</sup> September, 2011, insofar as such recovery is founded on retrospective CDA to IDA re-fixation following promotions after 1<sup>st</sup> January, 1989.

(ii) Any amount already recovered from any Petitioner in these two writ petitions shall be refunded within eight weeks, together with interest at 6% per annum from the date of recovery till the date of refund. If no recovery has been made, this direction will not operate.

(iii) The Respondents shall release, within eight weeks, any portion of retiral benefits, leave encashment or salary dues withheld/deducted from any Petitioner in W.P.(C) 7659/2011 and W.P.(C) 3365/2012 on the footing of



recoverability arising from the CDA to IDA re-fixation. The withheld/deducted amounts shall carry interest at 6% per annum from the date of withholding/deduction till the date of actual release. If any part of the withholding is attributable to reasons unconnected with this controversy, a reasoned calculation statement confined to that component shall be furnished within the same period.

W.P.(C) 9195/2015, W.P.(C) 13584/2019 and W.P.(C) 12187/2019

42. These petitions are allowed in the following terms:

(i) The Respondent Corporation shall not withhold payments and benefits payable upon CDA to IDA re-fixation to the Petitioners in these writ petitions merely by relying on the circular dated 24<sup>th</sup> May, 2013 and the communication dated 5<sup>th</sup> January, 2015, insofar as these instruments have been applied to postpone “payment cases” while permitting “recovery cases” to proceed.

(ii) The Respondent Corporation shall compute and release, within ten weeks, all amounts payable to the Petitioner in W.P.(C) 9195/2015, the Petitioners in W.P.(C) 13584/2019, and the Petitioners in W.P.(C) 12187/2019 towards pay arrears and all consequential dues (including differential gratuity, wherever payable), on the basis of IDA re-fixation from the date of their first promotion on or after 1<sup>st</sup> January, 1989. In the case of W.P.(C) 9195/2015, the relevant date of such promotion shall be taken as 26<sup>th</sup> December, 2008, as pleaded. The exercise shall remain subject to verification from service records and application of the prescribed fitment norms. This direction shall also extend to the Petitioners in W.P.(C) 12187/2019 as “left-out beneficiaries”, and their pay fixation and consequential release shall not be withheld merely because their cases fall



on the “payment” side of the same refixation regime.

(iii) The amounts found payable shall carry interest at 6% per annum from 1<sup>st</sup> March, 2013 till actual payment. This date is adopted because the blanket interim restraint operating earlier was no longer in force after the order dated 22<sup>nd</sup> February, 2013, and continued withholding of amounts payable under the refixation framework thereafter cannot be justified by a unilateral administrative “payments pending” posture. Where any Petitioner demonstrates from contemporaneous records that a specific component stood sanctioned earlier (or payment was otherwise due earlier on completion of pay fixation) and was withheld without any linkage to the interim stay, the Respondent Corporation shall, upon a representation confined to that component, pass a reasoned decision within four weeks and, if warranted, recompute interest for that component accordingly.

(iv) The circular dated 24<sup>th</sup> May, 2013 and the communication dated 5<sup>th</sup> January, 2015 are set aside to the limited extent they mandate, or have been applied as mandating, a regime where recoveries are pursued while payment cases are kept pending solely on the ground that the underlying circular dated 30<sup>th</sup> September, 2011 is under challenge. They shall not be used to justify an indefinite deferment of payments found payable under the refixation exercise.

43. The writ petitions are allowed in the above terms. Pending applications, if any, stand disposed of.

**SANJEEV NARULA, J**

**FEBRUARY 25, 2026/ab**