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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11926/2021
DAMODARA BANGERA BPetitioner
Through: Ms. Saahila Lamba, Adv.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Raj Kumar Yadav, SPC
with Mr. Jitendra Kumar Tripathi, GP and
Mr. Sumit Kumar Raj, Ms. Preeti Gothwal
and Ms. Anjali Ahlawat, Advs.
Mr. Jivesh Kumar Tiwari, CGSC with Ms.
Samiksha, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)
15.12.2025

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C.HARI SHANKAR, J.

1. Consequent to his promotion as Sub Inspector (Ministerial)¹ in the Border Security Force², the petitioner, admittedly, assumed charge of the post on 2 July 2000.

2. The order of promotion dated 9 June 2000 specifically stipulated that the promotion would be with immediate effect, but that financial benefits would accrue to the petitioner and other persons promoted by the order from the date of taking over charge of the new

¹ "SI" hereinafter

² "BSF" hereinafter



assignment – in the case of the petitioner, of the post of SI.

3. As the petitioner was on sanctioned leave till 1 July 2000, the petitioner assumed charge of the post of SI on 2 July 2000. Accordingly, in terms of the promotion order dated 9 June 2000, the pay of the petitioner as SI was fixed with effect from 2 July 2000.

4. The petitioner did not raise any serious grievance about this, as according to the petitioner, it did not result in any considerable financial loss to him.

5. However, things changed with the issuance of an Office Memorandum³ dated 19 March 2012 by the Department of Expenditure, Ministry of Finance, consequent to the implementation of the recommendations of the 6th Central Pay Commission and the promulgation of the Central Civil Services (Revised Pay) Rules, 2008. As per this OM, persons who were to get their annual increment between February and June 2006 were entitled to one increment on 1 January 2006 in the pre-revised scale.

6. As the petitioner's pay in the post of SI had been fixed with effect from 2 July 2000, the annual increment of the petitioner in 2006 fell due on 2 July 2006. As a result, the petitioner lost out on the increment with effect from 1 January 2006, which was made available by the OM dated 19 March 2012 for employees whose annual increment became due between the months of February and June 2006.

³ "OM" hereinafter



7. In an attempt to obtain the benefit of the said OM, the petitioner has filed the present writ petition before this Court with the following prayers:

“In the facts and circumstances stated above, it is most respectfully prayed that this Hon’ble Court be pleased to:-

(i) Issue a writ of certiorari quashing order dated 08.06.2021 issued by the respondents;

(ii) Issue a writ of Mandamus directing the respondents to reckon date of assumption of charge by petitioner to the post of Sub Inspector (Ministerial) with effect from 09.06.2000 (date of promotion of petitioner to post of Sub-Inspector (Ministerial)) and consequently grant one increment on 01.01.2006 in the pre-revised pay scale and thereafter next increment in the revised pay structure on 01.07.2006 in terms of paragraph 3 of office memorandum dated 19.03.2012 and other consequential benefits;

(iii) Pass any such other order as it may deem fit to this Hon’ble Court in the facts and circumstances of the case.”

8. We have heard Ms. Saahila Lamba, learned Counsel for the petitioner and Mr. Raj Kumar Yadav, learned SPC for the respondents. Learned Counsel for the parties have also filed written submissions.

9. We deem it appropriate to reproduce the first three paragraphs of the written submissions filed by the petitioner, as they neatly encapsulate the exact claim of the petitioner in this petition, thus:

“1. By way of present petition, the petitioner is essentially seeking reckoning of his date of assumption of charge by petitioner to the post of Sub- Inspector (Ministerial) with effect from 09.06.2000 (date of issuance of promotion order of petitioner to post of Sub- Inspector (Ministerial)) and consequently grant one increment on 01.01.2006 in the pre-revised pay scale and thereafter next increment in the revised pay structure on 01.07.2006 in terms



of paragraph 3 of office memorandum dated 19.03.2012 and other consequential benefits.

2. The undisputed facts are that the on 09.06.2000, the petitioner was promoted in the rank of Sub Inspector (Ministerial). Significantly, the order dated 09.06.2000 prescribed that promotion of petitioner and other personnel mentioned in said promotion order will be with immediate effect but that financial benefits will accrue to petitioner and other personnel from the date of taking over charge of new assignment. (pg 18-22)

3. Admittedly, prior to issuance of promotion order dated 09.06.2000 the petitioner was posted at 89 Bn BSF, Dantiwara, Gujarat had proceeded on earned leave for a period of 27 days with effect from 05.06.2000 to 01.07.2000. The order dated 09.06.2000 placed the petitioner at the disposal of Rajasthan & Gujarat Frontier which in turn adjusted petitioner to 89 Bn BSF vide order dated 23.06.2000. After completion of his leave the petitioner assumed charge of Sub-Inspector (Ministerial) on 02.07.2000.”

10. Ms. Lamba has placed reliance, to support her case, on the judgment of a co-ordinate Bench of this Court in a batch of writ petitions in *Vijayan V.V. v. Union of India*⁴

11. Having heard learned Counsel for the parties, we regret our inability to agree to the prayer of the petitioner for the following reasons:

(i) The prayer of the petitioner to reckon the date of assumption of charge, by the petitioner, of the post of SI as 9 June 2000 is a physical impossibility. The petitioner actually assumed charge of the post of SI on 2 July 2020. There is no way in which this Court can change that date. The date of assumption of charge of the petitioner of the post of SI, therefore, remains 2 July 2000 and cannot be ante-dated to 9

⁴ Judgment dated 1 April 2019 in WP(C) 4448/2016



June 2000.

(ii) The order dated 9 June 2000, whereby the petitioner was promoted as SI, specifically stipulated that the petitioner would draw financial benefits from the date of assumption of charge to the post of SI. This clause was never challenged by the petitioner. It is well settled that an employee is bound by the terms and conditions of the order of appointment.⁵ As such, there was no illegality in the respondents' fixing the of pay of the petitioner as SI with effect from 2 July 2000.

(iii) The present case is clearly distinguishable from the facts which were before the Division Bench of this Court in **Vijayan V.V.** In that case, the petitioners could not join on or before 30 June as they had not been relieved of their former charge by the respondents themselves before that date. The Division Bench of this Court, therefore, identified the issue that arose for consideration thus:

“9. This led to the Petitioner filing the present petition in May 2006. The facts in the connected petitions are more or less identical. Only the relevant dates would be different in each case. The basic issue however, remains the same, viz., whether the persons who should have joined as ASI (Clerical) on a date falling between January and June of the relevant year, can claim one extra increment on the ground that the failure on their part to join as ASI (Clerical) during that period *was attributable not to themselves but the Respondents?*”

(Emphasis supplied)

⁵ Refer **Vidyavardhaka Sangha & Anr v. Y.D. Deshpande & Ors., (2006) 12 SCC 482**



The Division Bench, thereafter, went on to hold that as the inability of the petitioner to join the respondents before 30 June was attributable, not to, any act of the petitioner but to the respondents having failed to relieve the petitioner of the early post, which was beyond the petitioner's control, the respondents could not hold the said fact against the petitioner, so as to deny the petitioner the financial benefits which would have accrued to his benefit had he joined prior to 30 June. As against this, in the present case, the respondents did not, in any manner, stop the petitioner from joining the post of SI prior to 2 June 2000. Though Ms. Lamba has pointed out that the petitioner was on sanctioned leave till 1 July 2000, and therefore, came to know of this stipulation in the promotion order dated 9 June 2000 only when the petitioner joined the promotional post on 2 July 2000, the fact remains that, unlike the situation which obtained in *Vijayan V.V.*, the inability of the petitioner to join before 2 July 2000 was not attributable to any act of the respondents. As such, the very issue that arises before us in this case is distinct and different from which the Division Bench was seized in *Vijayan V V*, as identified in para 9 of that decision.

(iv) Grant of the relief that the petitioner seeks would require us to rewrite the OM dated 19 March 2012 to extend its benefit to the petitioner despite his annual increment not becoming due between February and June 2006. Quite clearly, we cannot do so.



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12. In view of the aforesaid, the petitioner cannot be treated as having been entitled to one additional increment on the basis of the OM dated 19 March 2012, as the annual increment of the petitioner fell in July 2006 and not between the months of February and June 2006.

13. We, therefore, reiterate our regret in being unable to come to the aid of the petitioner.

14. The writ petition is accordingly dismissed with no orders as to costs.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 15, 2025/rjd