



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

% Judgment reserved on: 23.01.2026
Judgment delivered on: 20.04.2026
Judgment uploaded on: *As per Digital Signature~*

+ **W.P.(C) 2549/2022**

RAM KUNWAR SINGH AND ANRPetitioners

versus

UNION OF INDIA AND ORSRespondents

Advocates who appeared in this case

For the Petitioners : Mr Ankur Chhibber, Advocate.

For the Respondents : Mr Farman Ali, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

1. This petition lays a challenge to the letters dated 22.07.2021, whereby the representation of both the petitioners for stepping up their pay equivalent with batchmates/juniors were rejected. The petitioners are seeking for stepping up of and fixation of their pay to the level of their batchmates/juniors, including arrears along with all consequential benefits.

2. This petition has been filed by the petitioners with the following prayers:-



*“i. Issue a writ of certiorari quashing the letters dated 22.07.2021 whereby the representations preferred by the Petitioners for stepping up of their pay equivalent with that of his batchmates/juniors has been rejected; And
ii. Issue a writ of Mandamus directing the Respondents to step up and fix the pay of Petitioners to that being equivalent to their batchmates/Juniors currently drawing basic Pay of Rs.96600/- along with arrears and all consequential benefits; Or”*

3. The facts as noted from the petition are that the petitioners were appointed as Sub-Inspector. (Executive) in Central Industrial Security Force (CISF). The petitioner no.1 was promoted to the rank of Inspector on 12.03.1992. In the year 2005, the petitioner no.1 was sent on deputation with the Central Bureau of Investigation. The petitioner no.2 was sent to Delhi Police on deputation from 1985 to March 1992 and thereafter, he was repatriated to his parent cadre. The petitioner no.2 was promoted as Inspector (Exe.) in January 1993.

4. On 01.03.2013, while being on deputation, the petitioner no.1 was granted *proforma* promotion as Assistant Commandant (‘AC’) and was repatriated upon completion of his deputation on 28.11.2014. The petitioner no.2 was promoted to the rank of AC in the year 2013. On 26.06.2021, petitioner no.1 was promoted to the rank of Deputy Commandant (‘DC’). On 12.11.2021, the petitioner no.2 was promoted to the rank of DC. The petitioner no.1 superannuated from service on 30.09.2021 and the petitioner no.2 is currently posted at CISF Unit at Punjab and Haryana Secretariat, Chandigarh.

5. As per the seniority list of ACs issued by the respondents, the petitioner no.1 was at serial no.37 and petitioner no.2 was at serial no.57 in



the order of seniority.

6. It is the case of the petitioners that Md. Abdus Salam, who is junior to the petitioners at Sr. no.74 of the seniority list, was drawing higher pay than the petitioners. As on July 2021, the petitioners were drawing a basic pay of Rs.93800/-; whereas Md. Abdus Salam was drawing one scale higher at Rs.96,600/-. It is also their case that, Ashwani Kumar, who joined the force in the year 1987, and serving as AC was drawing higher salary than the petitioners. The officer serving in the lower rank of AC had a basic pay of Rs.92700/- with effect from January 2021. The petitioners being senior and serving as DC were incorrectly fixed at lesser basic pay.

7. On 08.02.2021 and 23.02.2021, the petitioners made their representations requesting the respondents to remove the anomalies/discrepancies with regard to their lower basic pay than their juniors and for stepping of their pay equivalent to their juniors. On 22.07.2021, the respondents vide two separate letters, rejected the request made by the petitioners by stating, as under:-

"Shri Ram Kunwar Singh. AC Exe has been drawing increment on 01.07.1986 after fixation of pay under CCS (RP) Rules, 1986 whereas the increment date of Shri Md. Abdus Salam. AC was antedated from 01.07.1986 to 01.03.1986 at par with CISF No.8501001 SI/Exe Geeta Singh. The pay details of junior in each rank for examination of the antedating of the increment of senior CISF personnel under the Proviso -2 to Rule-8 of CCS (RP) Rules, 2008 were circulated to all field formations vide this Directorate letter No.E-27099/36/92-Entt (Pt.2)1597 dated 11.12.1992. The said benefit was also available to Shri Ram Kunwar Singh. But his case for antedating the increment was not received in this Directorate for which reasons are



known to the concerned units.

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The pay of Shri Kulvir Singh Malik, AC/Exe on promotion to the rank of Inspector/Exe w.e.f. 11.01.1993 and in the replacement pay scale of Rs.6500-200-10500 has been fixed from the date of promotion/grant of replacement pay scale whereas the pay of Shri Salam. AC/Exe has been fixed in the rank of Inspector/Exe and in replacement pay scale w.e.f. 10.10.1997 after accrual of next increment. Shri Md Abdus Salam has been granted increment due on 01.03.2006 on 01.01.2006 in the light of Ministry of Finance. Department of Expenditure OM No. OM No. 10/02/2011-E.III/A dated 19.03.2012. The anomaly in the pay of Shri Malik has not been arisen due to fixation of pay of Shri Salam under FR, but due to different options exercised by him which was also available to Shri Malik. So under the existing provisions of FR, the pay of Shri Kulvir Singh Malik. AC/Exe cannot be stepped up at par with Shri Md. Abdus Salam AC/Exe."

CASE OF THE PETITIONERS

8. Mr Ankur Chhibber, the learned counsel for the petitioners submitted that, as per the Seniority List of AC issued by the respondents, the petitioners were senior to certain officers, and were drawing comparatively less pay than their batch mate Md. Abdus Salam, whose position in the list was at Serial No.74, which is lower than petitioners. He also submitted that, Md. Abdus Salam was drawing basic pay at Rs.96,600/- and petitioners being senior in the list was drawing basic pay at Rs.93800/-, as on July 2021. He also submitted that, Ashwani Kumar who joined the force in the year 1987 and serving as AC his basic pay was fixed at of Rs. 92,700/- w.e.f. January, 2021 whereas, the petitioners herein despite being senior and serving in the rank of DC were fixed at lower basis pay.



9. He submitted that, the petitioners made representations requesting the respondents to remove the said anomaly/discrepancy which were rejected by the respondent.

10. He submitted that the reasoning for the respondents was that the benefit of increment wef 01.03.1986, were not given due to lackadaisical approach of the concerned authority of the respondents themselves, and as per the standard terms and conditions across the board as it was the duty of the respondents to fix the pay increments of the personnel serving in the force,. He also submitted that, it was for the respondents to fix the pay of the petitioners at par with their batchmates and should have granted the benefit of ante-dated fixation of pay as has been granted to the juniors of the petitioners.

11. According to him, the anomaly in the basic pay of the petitioners *vis-a-vis* the juniors crept solely due to the inaction of the respondents in not granting the increment to all the eligible officers. The said inaction on the part of the respondents have consequently resulted in reducing the basic pay of the petitioners to the extent that, the pay of the juniors of the petitioners is being fixed at higher basic pay.

12. Mr. Chhibber submitted that, the respondents ought to have implemented their own policies by extending the benefit of the increment(s). He also submitted that the act of the respondents in not extending the financial benefit to the petitioners to the level as is being provided to their batchmates is contrary to the FR 23 of the Fundamental Rules ('FR'), which is reproduced as under:

(23) (a) In order to remove the anomaly of a Government



servant promoted or appointed to a higher post on or after 01.04.1961 drawing a lower rate of pay in that post than another Government Servant junior to him in the lower grade and promoted or appointed subsequently to another identical post. it has been decided that in such cases the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior officer and will be subject to the following conditions namely:

a. Both the junior and the senior officers should belong to the same cadre and the posts in which they have been promoted are identical in the same cadre

b. The scales of pay of the lower and higher posts in which they are entitled to draw pay should be identical

The anomaly should be direct as a result of the application of FR22-C. For example if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments. The above provisions will not be invoked to step up the pay of the senior officer."

13. He also submitted that the DoPT vide OM dated 26.10.2016 had laid down certain guidelines regarding stepping up of pay, as under:

i) In order to remove the anomaly of a Government servant promoted or appointed to a higher post on or after 1.1.2016 drawing lower pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, the pay of the senior Government servant in the higher post should be stepped up to a figure equal to the pay as fixed for the junior Government servant in that higher post. The stepping up should be done with effect from the date of promotion or appointment of the junior Government servant and will be subject to the following conditions, namely:



- (a) Both the junior and the senior Government servants should belong to the same cadre and the posts in which they have been promoted are identical in the same cadre;
- (b) The Level in the Pay Matrix of the lower and higher posts in which they are entitled to draw pay should be identical;
- (c) The anomaly is directly as a result of the application of the provisions of Fundamental Rule 22(I)(a)(I) read with Rule 13 of CCS(RP)Rules, 2016. For example, if the junior officer was drawing more pay in the existing pay structure than the senior by virtue of any advance increments granted to him, the provisions of this sub-rule should not be invoked to step up the pay of the senior officer.

14. He submitted that the respondents ought to have acted in consonance with the Rule and Instructions to extend the benefit of stepping up of pay at par with juniors of the petitioners. Despite various requests, the respondents have denied the stepping up of pay by stating their own reasons. He also submitted that the said act of the respondents in not stepping up the pay of the petitioners at par with their batchmates/joinders is in clear contravention of service jurisprudence and also in terms of the OM dated 26.10.2018.

15. Mr. Chhibber submitted that the issue wherein a senior gets lower pay than his juniors due to inaction of the Department is no longer *res-integra* and the same has been decided by this Court in the case of **Vijayan VV & Ors. v Union of India & Ors, W.P. (C) No.4448/2016**, wherein Court has held as under:

"13. With the delay in the Petitioners joining as ASJ (Ministerial/Clerical) not being attributable to any omission on their part, but on account of the Respondents delaying the issue of their respective reliving orders, it is not fair to deprive the Petitioners of the all consequential monetary



benefits.

14. Consequently this Court directs the Respondents to grant each of the Petitioners, the one extra increment to which they are entitled by treating the notional date of their respective joining as ASI (Ministerial/Clerical) to be on or before the last date by which they were to join in terms of the original posting orders and to work out their pay scale accordingly. The resultant arrears will be paid to each Petitioner not later than 8 weeks from today failing which the Respondents should be liable to pay simple interest at 6% per annum on the said sum for the period of delay in terms of this order. "

16. He submitted that, this Court has dealt with a similar issue of a senior drawing lesser pay than the junior for no fault of his own, in ***Tejbir Singh Dagar v. Union of India, 2014 SCC OnLine Del 45***,. He states, the case of the petitioners, is of '*continuing wrong*', though the cause of action has arisen in 1986. As such, and it would not be barred by delay and laches. In support of his submission, he has relied on the following judgments;-

i. ***Union of India v. Tarsem Singh 2008 (8) SCC 648***.

ii. ***State of Madhya Pradesh v Yogendra Shrivastava, (2010) 12 SCC 538***.

iii. ***Shriniwas v Union of India, 2016 SCC OnLine Del 4336***.

17. Mr. Chhibber has submitted that the anomaly which arose in the year 1986 continued and the same is also apparent at the time of fixation in terms of 5th Central Pay Commission ("CPC") wherein the petitioners pay was fixed at basic pay of Rs.6500/- w.e.f. 10.10.1997, whereas, their juniors were fixed in the scale of Rs.6700/-.

18. He submitted that, anomaly was due to the options which was



implemented in favour of the juniors of the petitioners to take the benefit of the option exercised for the year 1986 and also on the next increment on 01.03.1987. However, the said option was never offered to the petitioners for various reasons not attributable to them. Therefore, the petitioners cannot be made to suffer the anomaly in pay occurs solely due to administrative reasons.

19. He seeks prayer as made in the petition.

CASE OF THE RESPONDENTS

20. Mr Farman Ali, CGSC, learned counsel for the respondents submitted that the petitioners were appointed as SI/Exe in CISF w.e.f. 04.07.1984 under the pay scale of Rs.380-12-500-EB-15-560. With regard to Md. Abdus Salam, his increment was ante dated to Rs. 1440/- on 01.03.1986 with the Date of Next Increment (“DNI”) w.e.f. 01.03.1987 being equivalent to the pay of his junior SI/Exe Geeta Singh having CISF No.8501001. No such stepping up of pay available in respect of petitioners, although they were appointed in the same rank and on the same date, and were also drawing the same pay of Rs.1,400/- w.e.f. 01.01.1986, resulting in the DNI of Md. Abdus Salam being shifted to the month of March from July.

21. He submitted that, no changes were there in the DNI of petitioners’ and hence their DNI remained in the month of July. Upon the implementation of recommendations of the 5th CPC and replacement scale w.e.f. 10.10.1997, the pay in respect of petitioners was fixed at Rs. 6,500/- w.e.f. 10.10.1997 with DNI w.e.f. 01.10.1998. He also submitted that the pay scale of Md. Abdus Salam was fixed in the replacement scale w.e.f.



01.03.1998 to Rs. 6,700/- with DNI w.e.f. 01.03.1999. The date of increment of pay scale of Md. Abdus Salam was between the months of February to June, and he was granted one increment in the pre-revised scale w.e.f. 01.01.2006 and then fixed in the revised scale under the 6th CPC. The date of increment in the case of petitioners was in the month of October and they were not eligible for the same. It resulted in the pay of Md. Abdus Salam being fixed in the fitment table of Rs. 15,440/- + 4,600/- w.e.f. 01.01.2006 in the revised scale by multiplying the existing basic pay of Rs. 8,300/- with 1.86 factor ($8300 \times 1.86=15438$ R/Off Rs.15,440/-).

22. Mr Ali submitted that the pay scale of petitioners was fixed in the fitment table of Rs.15,070/- + 4,600/- w.e.f. 01.01.2006 in the revised scale by multiplying the existing basic pay of Rs. 8,100/- with 1.86 factor ($8100 \times 1.86= 15066$ R/Off Rs.15,070/-) and the pay scale of Md. Abdus Salam was raised w.e.f. 01.01.2006 in terms of the revised pay scale. Hence, Md. Abdus Salam is drawing more pay than the petitioners.

23. He submitted that, upon perusal of the available records and the service book of Ashwini Kumar, he was appointed on 30.06.1987 and promoted to the rank of Inspector/Exe., on 13.08.1997 with basic pay of Rs 5,850/- in the pay scale of Rs. 5500-175-900, and was drawing less pay than petitioner no.1 till 09.10.1997.

24. Upon implementation of replacement pay scale under the 5th CPC, the pay scale of petitioner no.1 and Ashwini Kumar were fixed at Rs. 6,500/- w.e.f. 10.10.1997 with DNI to be 01.10.1998 in the replacement pay scale of Rs. 6500-200-10500 for Inspectors' in CISF. The petitioner no.1 was granted the 2nd Financial Up Gradation ('FUG') benefit under the Assured



Career Progression ('ACP') scheme w.e.f. 04.07.2008 and his pay was fixed at Rs 17,560/- by allowing the grade pay of Rs.5,400/-. However, Ashwini Kumar was granted the 2nd FUG benefit under the Modified Assured Career Progression ('MACP') scheme w.e.f. 01.09.2008 and accordingly his pay was fixed at Rs 17,560/- by allowing the grade pay of Rs.4,800/- w.e.f. 01.09.2008.

25. According to Mr Ali, thereafter, the petitioner no.1 was granted the 3rd FUG benefit under MACP Scheme on 04.07.2014 and his pay was fixed at Rs 22,860/- with the next DNI on 01.07.2015 and upon implementation of the recommendations of the 7th CPC, his pay was revised to Rs 78,500/- on 01.01.2016 in Level 11. In the meanwhile, the pay of Ashwini Kumar was fixed at Rs 75,600/- upon grant of the 3rd FUG benefit under MACP Scheme w.e.f. 30.06.2017.

26. He submitted that the petitioner no. 1 was drawing more pay than Ashwini Kumar till December 2019. It is after issuance of Government of India, Ministry of Finance, Department of Expenditure OM No.4- 21/2017-IC/E.IIIA dated 28.11.2019, the personnel whose pay were fixed on grant of FUG under MACP Scheme or on regular promotion on or after 01.01.2016 were given an opportunity to exercise or re-exercise the option under FR-22(i) a (i) to change of their DNI. Accordingly, the pay scale in respect of Ashwini Kumar was re-fixed in accordance with the FR 22(i) a (i) and his pay was raised to Rs.90,000/- in Level-10 w.e.f. 01.01.2020 and Rs. 92,700/- in Level-10 w.e.f. 01.01.2021 with DNI w.e.f. 01.01.2022 as he was granted 3rd FUG w.e.f. 30.06.2017 and was also promoted to the rank of AC/Exe w.e.f. 02.02.2019. However, the petitioner no.1 was drawing a



basic pay of Rs.88,400/- in Level 11 w.e.f. 01.07.2019 and Rs.91,100/- in Level 11 w.e.f. 01.07.2020 with the DNI w.e.f. 01.07.2021.

27. Mr. Ali submitted that, as per the directions issued by Estt. Branch vide letter dated 19.03.2021, the service documents and comparison pay details were forwarded to the NCR Sector HQ, New Delhi to FHQ New Delhi. The issue with regard to the anomaly of pay in respect of petitioners, Md. Abdus Salam and Ashwini Kumar was examined by the AD/Accounts, CISF FHQ New Delhi and the directions were passed by the AD/Accounts, FHQ New Delhi vide letter No.E-27099/05/2021/Ent/201 dated 22.07.2021, the impugned order.

28. He submitted that, on a perusal of the pay details of petitioner no.2, the petitioner no.2 was granted the 3rd FUG under MACP Scheme in grade pay of Rs 6,600/- in Level 11, whereas, Ashwani Kumar was granted 3rd FUG under MACP Scheme in Level-9 i.e., in different pay levels. In the succeeding years, the petitioner no.2 at the rank of AC (Exe) was drawing pay in the Pay Level 11, whereas, Ashwani Kumar was drawing pay in Pay Level 10. He also submitted that the anomaly in the pay of senior government servant in a MACP benefit prior to 01.01.2016 at par with the junior government servant who availed MACP benefit on or after 01.01.2016 can be rectified subject to the fulfillment of the following conditions:

“... .. As per the provisions of S.No.20 of Govt. of India, Ministry of Personnel, Public Grievances and Pensions, DoPT OM No.35034/3/2015-Estt(D) dated 22.10.2019, the anomaly in the pay of senior Govt. servant granted MACP benefit prior to 01.01.2016 at par with the junior Govt. servant availed MACP benefit on or after 01.01.2016 can be rectified subject to the fulfillment of the following



conditions, namely :

- a) Both the junior and senior government servants belong to the same cadre and they are in the same pay level on grant of MACP.
- b) The existing pay structure and the revised pay structure of lower and higher posts in which they are entitled to draw pay are identical.
- c) The senior government servants at the time of grant of MACP are drawing equal or more pay than the junior.
- d) The anomaly is directly as a result of the application of provisions of FR 22 or any other rule or order regulating pay fixation on such grant of MACP in the revised pay structure.

29. He submitted that the conditions for stepping up of pay as mentioned in S.No. 20 of Government of India, Ministry of Personnel, Public Grievances and Pensions, DoPT OM No.35034/3/2015-Estt (D) dated 22.10.2019, are not fulfilled in the case of the petitioner no.2.

30. He submitted that, Ashwani Kumar was drawing basic pay of Rs. 8100/- at the rank of Inspector w.e.f. 01.10.2005 and his pay was fixed at Rs. 15,070 + (GP) Rs. 4,600/- in PB-2 Rs. 9300-34800+4600 (GP) w.e.f. 01.01.2006 and that 3% of the basic pay of Rs. 15,070/ + (GP) Rs. 4600/- comes to Rs. 590.10. The basic pay of Ashwani Kumar was raised to Rs.15,670 + 4600 (GP) w.e.f. 01.07.2006 which was required to be amended to Rs. 15,660 + 4600 (GP) and subsequent increments are also required to be modified. He also submitted that vide CISF FHQ letter no. E-27099/5/52021/Est-200 dated 22.07.2021, the Concerned Unit was directed to make necessary rectifications in the pay anomaly with respect to Ashwini Kumar.

31. Mr. Ali submitted that, Ashwani Kumar availed 3rd FUG under the



MACP Scheme w.e.f. 30.06.2017 in Level-9 and upon his promotion to the rank of AC/Exe w.e.f. 02.02.2019, the benefit of FR 22(1)(a)(1) was not available. He was drawing a basic Pay of Rs. 85,100/- instead of 87,400/- w.e.f. 02.02.2019 to 31.12.2019, therefore, under the provisions of FR 22(1)(a)(2) and thus vide directions received from CISF FHQ vide letter dated 22.07.2021, his pay was rectified and was re-fixed at Rs 15,660/- + 4600/- (GP) w.e.f. 01.07.2006 and Rs 85,100/- + Rs 5,400/- (GP) w.e.f. 02.02.2019. Therefore, the present pay of Ashwani Kumar is Rs. 95,500/- + Rs. 5,400/- (GP).

32. He submitted that in case of petitioner no. 2 on his promotion to the rank of Inspector/Exe w.e.f. 11.01.1993, it was fixed from the date of promotion/grant, whereas in case of Md. Abdus Salam, his pay was fixed in the rank of Inspector (Exe) in replacement pay scale w.e.f. 10.10.1997 after accrual of next increment. He also submitted that the anomaly in the pay of the petitioner no.2 is not due to fixation of pay of Md. Abdus Salam under FR, but due to different options exercised by Md. Abdus Salam, which were also available to petitioner no.2, but he did not avail it under the existing provisions of FR.

33. He submitted that the pay of Md. Abdus Salam was fixed under Central Civil Service (Revised Pay) Rules, 1986 [‘CCS (RP) Rules 2008’] after granting increment on 01.03.2006 wef 01.01.2006 in the pre-revised pay scale of Insp/Exe in the light of Govt of India, Ministry of Finance. Department of Expenditure OM No 10/02/2011-EIWA dated 19.03.2012, whereas the said benefit was not available to petitioner no.1 as he was drawing increments in the month of October. Since, the anomaly in the pay



of petitioner no.1 was due to the fixation of pay of junior under the provisions of FR-22(1)(a)(1), the pay of the officer cannot be stepped up under the existing provisions of FR.

34. Mr Ali submitted that the CISF Directorate after examining their cases noticed that they were drawing increment on 01.07.1986 after fixation of pay under CCS (RP) Rules 2008 whereas the increment date of their batch mate Md. Abdus Salam was ante-dated from 01.07.1986 to 01.03.1986 at par with then SI/Exe Geeta Singh CISF. The pay details of juniors in each rank for examination of ante-dated increment of senior CISF personnel under the proviso 2 to Rule 8 of CCS (RP) Rules 2008 were circulated to all field formations vide letter No.E-27099/36/92-Entt (PL.2)/597 dated 11.12.1992, the said benefit was also available to petitioners but no representations were made from the petitioner.

35. He submitted that there is no such ante-date pay available in respect of petitioners although they were appointed in the same rank on same date and drawing same pay of Rs.1, 400/- w.e.f. 01.01.1986. The DNI with respect to Md Abdus Salam was shifted to the month of March from July, whereas, there were no changes in the DNI in the case of petitioners.

36. He seeks dismissal of the present petition.

ANALYSIS & CONCLUSION

37. Having heard the learned counsel for the parties and perused the documents, the short issue which arises for consideration is, whether the petitioners are entitled to stepping up of pay *qua* Md. Abdus Salam and Ashwani Kumar. There is no dispute that the petitioners herein are senior to



Md. Abdus Salam and Ashwani Kumar. In fact, the case of the respondents can be seen from the impugned communication dated 22.07.2021 as under:-

“13, CGO Complex
Lodhi Road, New Delhi-03
Date: 22 July 2021

E - 27099/05/2021 Entitlement/201

To,
Assistant Inspector General,
CISF NCR Section HQrs,
New Delhi

*Subject: -Stepping up of pay of Shri Ram Kunwar Singh,
Asstt Comdt./Exe at par with Shri Md. Abdus Salam,
AC/Exe : Reg*

Reference is invited to your letter No.E-38014/CISF/NCR/Pay Fix/Doc/2021-5806 dated 28.04.2021 on the subject cited above.

2. The stepping up of pay case of Shri Ram Kunwar Singh, AC/Exe at par with Shri Md. Abdus Salam. AC/Exe has been examined and the following has been found:

(i)	<i>Shri Ram Kunwar Singh. AC/Exe has been drawing increment on 01.07.1986 after fixation of pay under CCS (RP) Rules 1986 whereas the increment date of Shri Md. Abdus Salam. Ac/Exe was antedated from 01.07.1986 to 01.03.1986 at par with CISF NO.8501001 SIExe Geeta Singh. The pay details of junior in each rank for examination of the antedating of the increment of senior CISF personnel under the Proviso -2 to Rule-8 of CCS (RP) Rules.2008 were circulated to all field formation vide this Directorate letter NO.E-27099/36/92-Entt (Pt.2)1597 dated 11.12.1992. The said benefit was also available to Shri Ram Kunwar Singh. But his case for antedating the increment was not received to Shri Ram Kunwar Singh. But his case for antedating the increment was not received in this Directorate for which reasons are</i>
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	<i>known to the concerned units.</i>
(ii)	<i>Consequent upon implementation of the replacement pay scale of Rs.6500-200-10500 w.e.f. ;0.10.1997 for the post of Inspector, the pay for Shri Ram Kunwar Singh has been fixed from the date of grant of replacement pay scale, whereas the pay of Shri Md. Abdus Salam has been fixed after accrual of next increment in the lower pay scale. The pay of senior cannot be stepped up at par with the junior under the provisions of Fr in such cases.</i>
(ii)	<i>The pay of Shri Md. Abdus Salam has been fixed under CCS (RP) Rules.200S after granting increment due on 01.03.2006 w.e.f. 01.01.2006 in the pre-revised pay scale of Inspector/Exe in the light of Govt. of India. Ministry of Finance. Department of Expenditure OM No.1D.02.2011-E.III/A dated 19.03.2012 whereas the said benefit was not available to Shri Ram Kunwar Singh as he was drawing increment in the month of October. Since, the anomaly in the pay of Shri Ram Kunwar Singh has not been arisen in fixation of pay of junior under the provisions of Fr 22 (1)(a)(1) so the pay of the officer cannot be stepped up under the existing provisions of FR as amended from time to time.</i>

3. In view of the above, the service documents of Shri Ram Kunwar Singh. AC/Exe and Shri Md Abdus Salam, AC/Exe (Service book only) are returned herewith.

Encl: As above.

Sd/-

22.07.21

Assistant Director/Accounts”

“Directorate General
Central Industrial Security Force
Home Ministry
E - 27099/05/2021Entitlement/201



13, CGO Complex
Lodhi Road, New Delhi-03
Date: 22 July 2021

To,

Assistant Inspector General,
CISF NCR Section HQrs,
New Delhi

Subject :- Stepping up of pay of Shri Kulvir Singh Malik,
Asstt Comdt. at par with Shri Ashwani Kumar & Shri Md.
Abdus Salam, AC/Exe : Reg.

Reference is invited to your letter No. E-38014/CISF/NCRS/Pay
Fix/Doc/2019-1747-E dated 21.05.2021 on the subject cited
above.

2. A scrutiny of the service document of Shri Kulvir Singh Malik,
AC/Exe for stepping up of pay at par with Shri Ashwani Kumar,
AC/Exe and Shri Md. Abdus Saleem, AC/Exe has revealed as
under:

i)	<p>As per the provisions of S.No.20 of Govt. of India, Ministry of Personnel, Public Grievances and Pensions, DoPT OM No.35034/3/2015-Estt(D) dated 22.10.2019, the anomaly in the pay of senior Govt. servant granted MACP benefit prior to 01.01.2016 at par with the junior Govt. servant availed MACP benefit on or after 01.01.2016 can be rectified subject to the fulfillment of the following conditions, namely :</p> <p>a) Both the junior and senior Govt servants belong to the same cadre and they are in the same pay level on grant of MACP.</p> <p>b) The existing pay structure and the revised pay structure of lower and higher posts in which they are entitled to draw pay are identical.</p> <p>c) The senior Govt servants at the time of grant of MACP are drawing equal or more pay than the junior.</p> <p>d) The anomaly is directly as a result of the application of provisions of FR 22 or any other rule</p>
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	<p><i>or order regulating pay fixation on such grant of MACP in the revised pay structure.</i></p> <p><i>Shri Kulvir Singh Malik was granted 3rd Financial Upgradation under MACP Scheme in GP Rs.6600/- (Level-11) whereas Shri Ashwani Kumar has been granted 3rd Financial Upgradation under MACP Scheme in Level-9 i.e in different Pay Level. Further, Shri Kulvir Singh Malik, AC/Exe is serving in Pay Level-II whereas Shri Ashwani Kumar, AC/Exe is serving in Pay Level-10. So the conditions as mentioned in para-2 above are not fulfilled for stepping up of pay.</i></p>
ii)	<p><i>Shri Ashwani Kumar, AC/Exe was drawing basic pay of Rs.8100/- in the rank of Inspector w.e.f. 01.10.2005 and his pay get fixed at Rs.15070 + GP Rs.4600/- in PB-2 Rs.9300-34800 + 6600 GP w.e.f 01.01.2006. The 3% of the basic pay of Rs.15070 + GP Rs.4600/- comes to Rs.590.10 and as per the orders issued by Ministry of Finance, the Rs.0.99 are ignored for rounding off the amount of increment in the multiple of 10. So the basic pay of the officer raised to Rs.15670+4600/- GP w.e.f. 01.07.2006 need to be amended to Rs.15660-4600 GP and subsequent increments are also need to be modified.</i></p>
iii)	<p><i>Shri Ashwani Kumar, AC/Exe has availed 3rd Financial Upgradation under MACP Scheme w.e.f. 30.06.2017 in Level-9 and on his promotion to the rank of Asstt. Comdt/Exe w.e.f. 02.02.2019, the benefit of FR 22 (1)(a)(1) is not available. So he will draw basic pay of Rs.85100/- instead of 87400/- w.e.f. 02.02.2019 to 31.12.2019 under the provisions of FR 22(1)(a)(2).</i></p>
iv)	<p><i>The pay of Shri Kulvir Singh Malik, AC/Exe on promotion to the rank of Inspector/Exe w.e.f. 11.01.1993 and in the replacement pay scale of Rs.6500-200-10500 has been fixed from the date of promotion/grant of replacement pay scale whereas the pay of Shri Md Abdus Salam, AC/Exe has been fixed in the rank of Inspector/Exe and in replacement</i></p>



pay scale w.e.f. 10.10.1997 after accrual of next increment. Shri Md Abdus Salam has been granted increment due on 01.03.2006 on 01.01.2006 in the light of Ministry of Finance. Department of Expenditure OM No.10/02/2011-E.III/A dated 19.03.2012. The anomaly in the pay of Shri Malik has not been arisen due to fixation of pay of Shri Salam under FR, but due to different options exercised by him which was also available to Shri Malik. So under the existing provisions of FR, the pay of Shri Kulvir Singh Malik. AC/Exe cannot be stepped up at par with Shri Md. Abdus Salam AC/Exe.

3. *In view of the above, the service documents of Shri Kulvir Singh Malik and Shri Ashwani Kumar, AC/Exe. (Service book only) are returned herewith.*

Encl : As above.

*Sd/-
22.07.21
Assistant Director/Accounts”*

38. Though, the respondents have stated that the pay of the petitioners cannot be stepped up *qua* Md. Abdus Salam but what is important is that in the impugned orders the respondents have observed that the case of the petitioners for ante-dating the increment was not received in the Directorate for the reasons best known to the concerned units. In other words, in the case of Md. Abdus Salam, the only reason is that, after granting increment on 01.03.2006 w.e.f. 01.01.2006, his pay was revised in the light of instructions dated 19.03.2012 issued by the Ministry of Finance but in the case of the petitioners, the same were not carried out. This resulted in Md. Abdus Salam and Ashwani Kumar drawing higher pay than the petitioners.

39. Suffice to state, there is no dispute that the petitioners were on



deputation with the Central Bureau of Investigation and Delhi Police, which could be the reason for not bringing the anomaly to the notice of the authorities. In any case, they have made their representations on 08.02.2021 and 23.02.2021, which have been rejected. It is a settled law that the pay fixation is a continuing cause of action and cannot be dismissed on the ground of delay and laches.

40. On a plain reading, the pay fixation of the petitioners needs to be corrected *qua* their juniors Md. Abdus Salam and Ashwani Kumar. This we say so because the reasoning given by the respondents for not granting the pay is clearly unsustainable and would not stand scrutiny of law. It is settled law that, if junior(s) is drawing higher pay than the senior(s), the pay of senior(s) need to be stepped up equivalent to the pay as drawn by junior(s). This Court has also in terms of the judgment of the *Tejbir Singh Dagar v. Union of India, 2014 SCC OnLine Del 45* as relied upon by Mr. Chhibber, has taken a similar view.

41. Accordingly, the impugned orders need to be set aside, we order so. The respondents are directed to fix the pay of the petitioners *qua* the juniors w.e.f. the date when the juniors started drawing higher pay, on notional basis. The arrears thereof shall be paid three years prior to date of rejection of the petitioners' request for stepping up of the pay i.e. from 22.07.2021, and thereafter continue to pay on the basis of such re-fixation.

42. Having noted the petitioner no. 1 had superannuated from service on 30.09.2021, the respondents shall also modify the PPO and grant arrears of retiral benefits on the basis of re-fixation of pay in terms of our observation.



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43. In view of our conclusion, the respondents shall comply the above direction within eight weeks from today with interest at the rate of 6% per annum. The petition is disposed of with the above direction.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

APRIL 20, 2026

RT