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

+ **W.P.(C) 12358/2021 & CM APPL. 38868/2021**

**EXHC GD PHOOL CHAND SINCE DECEASED**

**THROUGH HIS WIDOW SMT LILAVATI** ..... Petitioner

Through: Mr. Om Prakash Agarwal, Advocate.

versus

**UNION OF INDIA AND OTHERS**

..... Respondents

Through: Mr. Akshay Amritanshu, Advocate for  
UOI.

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Date of Decision: 29<sup>th</sup> October, 2021

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**MANMOHAN, J. (Oral)**

**CM Appl. 38868/2021 (for exemption)**

Allowed, subject to all just exceptions.

Accordingly, present application stands disposed of.

**W.P.(C) 12358/2021**

1. Present petition has been filed by the petitioner seeking a number of prayers. However, learned counsel for the petitioner prays that a similar order as passed by a Division Bench in W.P.(C) No.6437/2019 on 30<sup>th</sup> May, 2019 be passed in the present writ petition. He also clarifies that neither the judgment and order dated 30<sup>th</sup> May, 2019 in W.P.(C) No.6437/2019 nor the judgments referred to in the said order have been challenged before the Supreme Court by the respondents.

2. Issue notice.
3. Learned counsel for the respondents accepts notice. Learned counsel for the respondents state that in similar matters notices have been issued by the Supreme Court in the application for condonation of delay and Special Leave Petitions. He, however, candidly states that there is no stay in the said Special Leave Petitions.
4. It is pertinent to mention that the petitioner who is a widow has preferred the present writ petition primarily to seek a mandamus to the respondents to grant benefit of the second financial upgradation to her late husband under MACP Scheme in the Pay Band of Rs.9300-34800 with Grade Pay of Rs.4200 w.e.f. 01<sup>st</sup> January, 2006 and wherever 20 years have been completed till the date her late husband voluntarily retired on 30<sup>th</sup> June, 2006 or the dates mentioned in the prayer clause along with consequential benefits including arrears. The petitioner's claim is based upon the decision passed by the Supreme Court in the case of ***Union of India and Ors. Vs. Balbir Singh Turn & Anr.***, Civil Appeal Diary No.3744/2016 along with other cases decided on 08<sup>th</sup> December, 2017. The petitioner also places reliance on the decision of the Division Bench of this Court in ***Sunil Kumar Tyagi vs. Union of India & Anr.***, W.P. (C) No.3549/2018 decided on 01<sup>st</sup> May, 2019. He emphasises that SLP (Civil) No. 35888/2019, ***Union of India Vs. Sunil Kumar Tyagi*** has been dismissed by the Supreme Court vide order dated 15<sup>th</sup> November, 2019 and even the Review Petition filed against the said order has also been dismissed on 27<sup>th</sup> July, 2021.
5. As admittedly, there is no interim order passed by the Supreme Court in any of the Special Leave Petitions filed by the Union of India in similar matters, we dispose of the present writ petition in similar terms as passed in

W.P.(C) No.6437/2019 i.e. a direction to the respondents to consider the claim of the petitioner's husband in the light of judgments passed in *Union of India and Ors. Vs. Balbir Singh Turn & Anr. (supra)* and *Sunil Kumar Tyagi (supra)* as well as *Union of India & Ors. vs. M.V. Mohanan Nair, (2020) 5 SCC 421* and dispose of the representations of the petitioners positively within twelve weeks from today. It is clarified that in the event the Supreme Court varies or set asides the order passed by the Division Bench in the present petition and/or any other similar matter, then the present order shall abide by the order(s) of the Apex Court.

6. With the aforesaid direction, the present writ petition along with pending application stand disposed of.

**MANMOHAN, J**

**NAVIN CHAWLA, J**

**OCTOBER 29, 2021**

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