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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 8558/2024 & CM APPL. 35042/2024 -Ex.

CM APPL. 35077/2024 -Ex.

BIKRAJEET SINGH AND ORS.

..... Petitioner

Through: Mr. Mananjay Kumar Mishra, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Umang Chopra, SPC with Mr. Karan Malhotra, G.P.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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31.05.2024

1. The present writ petition under Article 226 of the Constitution of India seeks a direction to the respondents to treat the petitioners as members of the Pension Scheme under the Central Civil Services (Pension) Rules, 1972, commonly known as 'the Old Pension Scheme'.
2. Learned counsel for the petitioners submits that even though the post against which the petitioners were appointed as Constable (General Duty) in the BSF against vacancies which had arisen prior to 22.12.2003, when the National Pension Scheme, commonly known as 'New Pension Scheme' was notified, their claim for inclusion under the Old Pension Scheme is not being considered by the respondents. He submits that in terms of the DoPT's OM no. 57/05/2021-P&PW(B) dated 03.03.2023, all central government employees who were appointed against a post which was advertised/notified before



22.12.2003 would be given an option to be covered by the Old Pension Scheme. However, despite the petitioners repeated requests made to their respective units, their case is not being considered in accordance with the OM dated 03.03.2023. He further submits that for the present, the petitioners would be satisfied if the respondents are directed to decide the claim of the petitioners for being covered under the Old Pension Scheme by taking into account the DoPT's aforesaid Office Memorandum dated 03.03.2023 by treating the writ petition as their representation.

3. Issue notice. Learned counsel for the respondents accepts notice and has no objection to this limited request of the petitioners.
4. In the light of the aforesaid, the writ petition is disposed of by directing the respondents to consider, within twelve weeks, the case of the petitioners' for being covered under the Old Pension Scheme in accordance with the DoPT's OM bearing No. 57/05/2021-P&PW(B) dated 03.03.2023, by treating the present writ petition as a representation.
5. Needless to state, in case the petitioners are still aggrieved by any order passed by the respondents, it will be open for them to seek legal recourse, as permissible in law.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 31, 2024

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