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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6666/2015**

ABHISHEK CHOUDHARY AND ANR. Petitioners
Through: Mr. Abhishek Choudhary, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Sanjay Jain, ASG with Mr. Rakesh
Kumar, CGSC and Mr. Sarfaraz Ahmad, GP

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **18.10.2016**

1. This writ petition has been filed, seeking orders on the respondents to treat the personnel of the Central Armed Police Forces at par with Army, Navy and Air Force personnel by conferring on deceased members of the Central Armed Police Forces, the status of 'martyrs' or 'shaheed' and granting to them the same privileges, financial benefits and compensation, as are granted to deceased personnel of the Armed Forces, that is, the Army, the Navy and the Air Force.

2. It is the case of the petitioners that personnel of the Army, Navy and Air Force, killed on duty are called martyrs, but not personnel of the Indo Tibetan Border Force, Border Security Force, Central Reserve Police Force and other Central Armed Police Forces, who are killed in similar

circumstances.

3. The petitioners have, however not adverted to any statute, statutory rule, regulation, law, bye law, government order, notification or even administrative circular, which provides for granting of the status of ‘martyr’ or ‘shaheed’ to any armed forces personnel killed on duty.

4. Opposing the writ petition, the learned Additional Solicitor General, Mr. Jain argued that there are no statutes, rules, regulations or even any government order, which provides for designation of any deceased personnel, whether of any armed forces or of any Central Armed Police Forces as ‘shaheed’ / ‘martyr’.

5. The learned Additional Solicitor General argued that the entire writ petition was misconceived. The writ petitioners have claimed relief on the basis of allegations of discrimination between Armed Forces and Central Armed Police Forces.

6. The learned Additional Solicitor General argued that the allegation of discrimination were without basis because the respondents do not declare deceased members of the armed forces as martyrs or ‘shaheeds’.

7. The learned Additional Solicitor General referred to the Rules of Central Armed Police Forces and the Defence Forces and submitted that there is no official basis for declaration of status of martyrs or ‘shaheed’ to deceased personnel of the Armed Forces or to deceased personnel of the Central Armed Police Forces. There is, thus, no discrimination.

8. May be as contended by Mr. Abhishek Choudhary, Advocate some news reports refer to deceased soldiers of the armed forces killed in action as martyrs and / or 'shaheeds'. The style and presentation of news varies from newspaper to newspaper, depending on the reporter and / or the editor. Be that as it may, a news report describing any armed forces personnel killed in action in certain circumstances as 'shaheed' is not the same as the Government conferring status of martyr or 'shaheed' on such personnel.

9. Persons who lay down their lives for the cause of the country, be they Armed Forces personnel or personnel of the Central Armed Police Forces are socially perceived as martyrs and / or shaheeds. However, as pointed out by the learned Additional Solicitor General, there is no discrimination since there is no official conferment of the status of martyrs either to personnel of the Armed Forces or to personnel of the Central Armed Police Forces. Furthermore, representations in this regard have been considered by the Committee of Secretaries in 2011 and rejected on the ground of absence of any discrimination in this regard, since martyr and/or 'shaheed' has not been defined anywhere in any statute, rule or regulation. There is no notification, order, rule or regulation for declaration of deceased armed forces personnel as shaheeds / martyrs. The writ petition is thus misconceived and orders as prayed for in the writ petition cannot be passed.

10. Mr.Choudhary, Advocate submits that the 7th Pay Commission has recommended conferment of the status of martyrs on Central Armed Police

Forces personnel who lay down their lives in course of action. It is well-settled that the recommendations of the Pay Commission are not binding on the Government. It is, however, for the Government to consider and accept the recommendations of the Pay Commission or not accept the same. The Ministry of Home Affairs should consider the recommendations of the 7th Pay Commission in this regard and take a decision thereon.

11. The writ petition is dismissed.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

OCTOBER 18, 2016
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