

Sanjay Prakash & Ors.

v.

Union of India & Ors.

(Civil Appeal No. 13104 of 2024)

23 May 2025

[Abhay S. Oka and Ujjal Bhuyan,* JJ.]

Issue for Consideration

Whether the Central Armed Police Forces (CAPFs) are included in Organized Group-A Service (OGAS); all benefits available to OGAS, if available to the CAPFs.

Headnotes[†]

Central Armed Police Forces (CAPFs) – CRPF, BSF, SSB, ITBP and CISF, collectively known as CAPFs, whether included in Organized Group-A Service (OGAS) – All benefits available to OGAS, if available to the CAPFs – Grievances of the appellants-officers belonging to different CAPFs were non-recognition as OGAS, non-grant of Non-Functional Financial Upgradation (NFFU) and service stagnation because of lateral entry by way of deputation of IPS officers into the higher grades of the respective CAPFs due to which they were unable to get timely promotion – Plea of the appellants *inter alia* that DoPT had accepted the judgment of this Court in *Harananda* by issuing OM dtd. 12.07.2019 requiring CRPF and the other four CAPFs to be treated as OGAS for cadre issues and all other related matters; that once the CAPFs are declared as OGAS for all purposes, consequential steps like cadre review and restructuring of the service rules/recruitment rules will follow eliminating lateral entry, like by way of deputation, to posts upto the Senior Administrative Grade level; that Ministry of Finance had accepted the recommendations of the Sixth Central Pay Commission to the effect that eligibility criteria prescribed for promotion to Senior Administrative Grade in various Group-A services should be uniform:

Held: CAPFs are OGAS for all purposes – Government of India has accepted the CAPFs as belonging to OGAS *vide* the DoPT OM dtd.12.07.2019 – Since, the Central Government has accepted

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that CAPFs are included in OGAS, the natural consequences should follow – Eligible officers belonging to the CAPFs have already been granted NFFU following the decision of this Court in *Harananda* – DoPT OM dtd.12.07.2019 makes it clear that the CAPFs have been treated as OGAS for cadre issues and all other related matters – When CAPFs have been declared as OGAS, all benefits available to OGAS should naturally flow to the CAPFs – It cannot be that they are granted one benefit and denied the other – High Court did not take note of OM dtd. 12.07.2019 while disposing of the writ petitions filed by the appellants vide the impugned judgment – Cadre review to be carried out in all the CAPFs which was due in the year 2021; Ministry of Home Affairs, Government of India to give effect to the DoPT OM dtd.12.07.2019; review of the existing service rules/recruitment rules of each of the CAPFs be undertaken; number of posts earmarked for deputation in the cadres of the CAPFs upto the level of Senior Administrative Grade should be progressively reduced. [Paras 37, 43, 45]

Central Armed Police Forces (CAPFs) – Deputation of IPS officers in each of the CAPFs – Review of policy decision:

Held: There are various issues connected with the deployment of CAPFs, including coordinating with the State Governments and the state police force – Central Government in its wisdom has taken the view that presence of IPS officers in each of the CAPFs is vital to maintain the character of each of the CAPFs as a unique central armed force – This is a policy decision – However, this Court cannot also be oblivious of the grievance expressed by officers of the CAPFs – Their dedicated service upholding the security, integrity and sovereignty of the nation while safeguarding borders and maintaining internal security within the country cannot be ignored or overlooked – They discharge their duties under very demanding conditions – They have a grievance that because of lateral entry into the higher grades of the respective CAPFs, they are unable to get their timely promotion – Consequently, there is a great deal of stagnation – Such stagnation can adversely impact the morale of the forces – This also needs to be factored in while considering review of such policy decision. [Para 44]

Case Law Cited

Union of India v. Harananda (2019) 14 SCC 126; *Purushottam Lal v. Union of India* (1973) 1 SCC 651; *Laljee Dubey v. Union of India* [1974] 2 SCR 249 : (1974) 1 SCC 230 – referred to.

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G.J. Singh v. Union of India, 2015 SCC Online Del 11803;
Harananda v. Union of India, 2012 SCC OnLine Del 6001 –
referred to.

List of Keywords

Central Reserve Police Force (CRPF); Border Security Force (BSF), Sashastra Seema Bal (SSB); Indo-Tibetan Border Police (ITBP); Central Industrial Security Force (CISF); Central Armed Police Forces (CAPFs), Central armed force; Organized Group-A Service (OGAS); Service stagnation; Lateral entry; By way of deputation; Deputation; Deputation of IPS officers into CAPFs; Policy decision; Cadre review; Service rules of CAPFs; Recruitment rules of CAPFs; Senior Administrative Grade level; Non-Functional Financial Upgradation (NFFU); Sixth Central Pay Commission; Group-A executive cadre.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 13104 of 2024

From the Judgment and Order dated 27.07.2020 of the High Court of Delhi at New Delhi in WPC No. 12751 of 2019

With

Civil Appeal Nos. 13105, 13106, 13107, 13108 and 13110 of 2024

Appearances for Parties

Advs. for the Appellants:

Dushyant Dave, Guru Krishna Kumar, Shyam Divan, K. Parameshwar, Sr. Advs., Ms. Preetika Dwivedi, Abhishek Mohanty, Vishnu Shankar Jain, Abhishek Puri, Sahil Grewal, Ankur Chhibber, Ms. Surabhi Gupta, Mrs. Reeta Dewan Puri, P. N. Puri, Nishanth Patil, Rishav Ambasta, M. V. Mukunda, Himanshu Gautam, Lokesh Sharma, Chinmaya K Bhatt, Madhup Kumar Tiwari, Yashaswi Sk Chocksey, Rajesh Kumar, Mukesh Kumar, Ms. Amrita Pandey, Anuradha Pandey, Kishan Gautam.

Advs. for the Respondents:

Mrs. Aishwarya Bhati, A.S.G, Ms. Supriya Juneja, Ms. Aakanksha Kaul, Amit Sharma B, Raghvendra S Srivastava, Adit Khorana, Ms. Swati Ghildiyal, Rajat Nair, Navanjay Mahapatra, Padmesh Mishra, Rajesh Kumar Singh, Arvind Kumar Sharma, Ms. Shreya

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Jain, Abhijeet Singh, Sriram Krishna, Nitin Bhardwaj, Satyam Thareja, Ms. Vasundhara Nagrath, Shaurya Katoch.

Judgment / Order of the Supreme Court**Judgment****Ujjal Bhuyan, J.**

Substantive grievance in all the civil appeals being identical, those were heard together and are being disposed of by this common judgment and order.

2. All the civil appeals arise out of the common judgment and order dated 27.07.2020 passed by the High Court of Delhi (High Court) disposing of the following writ petitions:
 - (i) W.P.(C) No. 12052 of 2019 (*Tarun Kumar Banjaree & Ors. Vs. Union of India & Ors.*);
 - (ii) W.P.(C) No. 12751 of 2019 (*Sanjay Prakash & Ors. Vs. Union of India & Ors.*);
 - (iii) W.P.(C) No. 12875 of 2019 (*Mahendra Singh Deo Vs. Union of India & Ors.*);
 - (iv) W.P.(C) No. 13014 of 2019 (*Radha Mohan Meena & Ors. Vs. Union of India & Ors.*); and
 - (v) W.P.(C) No. 13588 of 2019 (*Sudhir Kumar Singh and Ors. Vs. Union of India & Ors.*).
3. It may be mentioned that the above five writ petitions were filed before the High Court by personnel belonging to different services viz. Central Reserve Police Force (CRPF), Border Security Force (BSF), Sashastra Seema Bal (SSB), Indo-Tibetan Border Police (ITBP) and Central Industrial Security Force (CISF), collectively known as Central Armed Police Forces (CAPFs). In all the five writ petitions, the following reliefs were sought:
 - (i) for a direction to the Union of India in respect of each of the CAPFs to fill up all the additional posts created pursuant to the cadre review (CR) of the year 2016 as per the existing recruitment rules which provide for certain percentage of posts

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at each level upto Senior Administrative Grade being filled up by way of deputation;

- (ii) for a direction to the respondents to amend the recruitment rules of each service i.e. CAPFs by including various attributes as required by the Office Memorandum dated 19.11.2009 issued by the Department of Personnel and Training, Government of India (DoPT) read with the related Office Memoranda dated 24.03.2009, 24.04.2009, 15.12.2009 and 08.05.2018 by providing that all posts upto Senior Administrative Grade should be filled up by way of promotion only and not by way of deputation;
 - (iii) thereafter, to conduct cadre review of Group-A officers of each cadre by treating each service as Organized Group-A Service (OGAS).
4. In support of the prayers made, appellants relied upon the report of the Sixth Central Pay Commission, OM dated 19.11.2009 of the DoPT and the decision of this Court in *Union of India Vs. Harananda*¹ by which the decision of the High Court in *G.J. Singh Vs. Union of India*² has been affirmed.
5. At the outset, let us examine the report of the Sixth Central Pay Commission which was of March, 2008. The report indicated that mandate of the Sixth Central Pay Commission was not only to evolve a proper pay package for the government employees but also to make recommendations rationalizing the governmental structure with emphasis on accountability, responsibility and assimilation of technology etc. The Sixth Central Pay Commission recommended that the next cadre review exercise should take into consideration its recommendations. The report indicated that despite recommendations of the earlier Central Pay Commissions and cadre reviews carried out earlier, all the services still had a great degree of stagnation at the level of Senior Administrative Grade. Thereafter, the Sixth Central Pay Commission made certain recommendations to ensure service progression of officers belonging to General Civil Services (GCS) Group-A which are not part of any Organized Group-A Service (OGAS) having individual recruitment rules. As a matter of fact, as

1 (2019) 14 SCC 126

2 2015 SCC Online Del 11803

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per the report of the Sixth Central Pay Commission, Group A civil posts in the Central Government can be broadly categorized into two: those classified as GCS Group A and OGAS.

6. The aforesaid recommendations of the Sixth Central Pay Commission were accepted by the Government of India. DoPT considered a number of representations concerning attributes and definition of OGAS on whom the benefit of Non-Functional Financial Upgradation (NFFU) was conferred. DoPT also considered several representations by personnel belonging to General Civil Services (GCS) Group-A claiming the status of OGAS and conferment of the benefit of NFFU.
7. This led DoPT to issue OM dated 19.11.2009 observing that the difference between an OGAS and other services/cadres had not been fully appreciated. Therefore, to remove any doubt, DoPT through the said OM dated 19.11.2009 spelt out the attributes of an OGAS. Relevant portion of the OM dated 19.11.2009 of the DoPT reads as under:

(i) The highest cadre post in such services is not below the level of Rs. 37400-67000 plus Grade pay of Rs. 10000 (SAG);

(ii) Such services have all the standard grades namely, Rs. 15600-39100 plus Grade pay Rs. 5400 (JTS), Rs. 15600-39100 plus Grade pay Rs. 6600 (STS), Rs. 15600-39100 plus Grade pay Rs. 7600/Rs. 37400-67000 plus Grade pay of Rs. 8700 (JAG/NFSG) and Rs. 37400-67000 plus Grade pay of Rs. 10000 (SAG);

(iii) At least 50% of the vacancies in Junior Time Scale (JTS) in such services are required to be filled by direct recruitment;

(iv) All the vacancies above JTS and upto SAG level in such services are filled up by promotion from the next lower grade;

(v) While a service may comprise one or more distinct cadre(s), all such cadres should be governed by composite Service Rules facilitating horizontal and vertical movement of officers of a particular cadre at least upto SAG level. The cadre posts of an Organised Service expressly belong to that service. The posts not belonging to any service

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are classified as General Central Service and, therefore, an Organised Group A Service cannot have posts/grades classified as General Central Service; and

(vi) Such a service consists of two distinct components, namely Regular Duty Posts and Reserves. The Reserves are generally of four types, viz. (i) Probationary Reserves, (ii) Leave Reserve, (iii) Training Reserve and (iv) Deputation Reserve. The various types of reserves are usually created and accounted for in the Junior Time Scale.

Note: The existing Organised Group A Services have evolved over a period of time and may have minor deviations owing to their respective functional requirements. The services already declared as such need not, however, be reviewed.

2. The above are certain basic attributes of an Organised Group A Service. There is, however, nothing to suggest that the services/cadres fulfilling these criteria would be automatically conferred the status of an Organised Group A Service. An Organised Group A Service is one which is constituted consciously as such by the Cadre Controlling Authorities and such a service can be constituted only through the established procedures.

8. Members of the CAPFs also represented that each of the CAPFs is an OGAS and, therefore, members of the CAPFs were entitled to the status and benefits associated with an OGAS including the benefit of NFFU. However, representations of the CAPFs were rejected.
9. This led to filing of a batch of writ petitions before the High Court. *Vide* the judgment and order dated 03.09.2015 High Court allowed the writ petitions (*G.J. Singh Vs. Union of India*). Respondents were directed to issue requisite notification granting the benefit of NFFU to the appellants within eight weeks.
10. Aggrieved by the aforesaid judgment and order of the High Court, Union of India preferred civil appeals before this Court. Several other civil appeals were also filed by the Union of India against similar judgments and order of the High Court including the judgment and order dated 04.12.2012 in *Harananda Vs. Union of India*³.

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11. All the civil appeals came to be disposed of by this Court *vide* the judgment and order dated 05.02.2019 in *Harananda* (supra). There were two groups of appeals. One group pertained to declaration of Railway Protection Force (RPF) as an OGAS within a definite timeframe with further direction to extend all the benefits conferred on OGAS to RPF. The other set of appeals dealt with the grievance of CAPFs relating to rejection of the request for grant of NFFU in respect of which the High Court had directed the respondents to issue requisite notification granting benefit of NFFU as recommended by the Sixth Central Pay Commission.
 - 11.1. Insofar the first group of appeals are concerned, this Court examined the OM dated 20.11.2003 of the DOPT and considered as to whether under the said OM an 'in principle' decision was taken for constitution of the RPF as an OGAS. High Court had treated the said OM as an 'in principle' decision for constitution of the RPF as an OGAS, thereafter directing further steps for cadre restructuring of RPF and also to finalize the service rules with reference to the RPF as an OGAS. This Court noted that from the judgment and order of the High Court it was evident that the same was a consent order. This Court further noted that it was never disputed by any of the respondents that the OM dated 20.11.2003 was not an 'in principle' decision of the DOPT for constitution of the RPF as an OGAS. Therefore, this Court held that it was not open to the Union of India to challenge the judgment of the High Court whereby further direction was issued by the High Court that necessary cadre structure of RPF as also the service rules should be finalized with reference to RPF being an OGAS. This Court affirmed the aforesaid judgment and order of the High Court and also found that even on merits, Union of India had no case. This Court declared that RPF was rightly treated and considered as an OGAS and that the High Court was fully justified in directing Union of India and others to take further steps for cadre restructuring of the RPF and to finalize the service rules with reference to the RPF being an OGAS.
 - 11.2. Insofar the second group of appeals are concerned, this Court noted that the High Court had allowed the challenge

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of the appellants by quashing OM dated 28.10.2013 and the related letters whereby their request for grant of NFFU was rejected whereafter the High Court directed the respondents to issue requisite notification granting the benefit of NFFU as recommended by the Sixth Central Pay Commission to the appellants belonging to the CAPFs.

11.3. This Court noted that the issue in the aforesaid appeals was non-grant of NFFU to the appellants serving in CRPF. NFFU was being denied solely on the ground that CRPF is not an OGAS. According to the respondents out of the six attributes which are required to be considered for treating and/or considering an organization as an OGAS, CRPF did not satisfy attributes (iv) and (vi) and also on the ground that the Sixth Central Pay Commission did not recommend grant of NFFU to CAPFs.

11.4. This Court examined the above controversy in the following manner:

23.5. So far as the submission made on behalf of the appellants that CAPFs are not an Organised Group A Services as they do not satisfy two attributes out of six attributes is concerned, it is required to be noted that the OM dated 19-11-2009 specifically notes that there may be certain “minor deviations” from the attributes listed therein and also to the extent wherein it states that even if the listed criteria are fulfilled, the same would not automatically confer the status of an Organised Group A Service. Thus, as rightly observed by the High Court in the impugned judgment and order, fulfilling/compliance of the attributes shall not be given too much weightage while deciding on the status of CAPFs.

23.6. At this stage, it is required to be noted that while considering the case of ITBP, the Department of Expenditure, Ministry of Finance, Government of India, it has been referred to in the additional affidavit of the Director, DoPT that since ITBP has no proper structure it is not possible to compare it

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with other Organised Services like BSF, CRPF. Thus, the Government itself has itself admitted way back on 21-10-1986 that BSF and CRPF are Organised Services and have, in fact, used them as examples of Organised Services. At the cost of repetition, it is to be noted that thereafter the Government has, through its own process, classified the BSF, CRPF and ITBP as being on a par with each other in the 1986, 1993 and 2010 Monographs, wherein the aforesaid CAPFs have been shown as a part of the same Group A Central Civil Services.

23.7. From the impugned judgments and orders passed by the High Court, it appears that by passing the impugned judgments and orders and holding that CAPFs are Organised Group A Central Civil Services, the High Court has considered the report of the Second Administrative Reform Committee which included in Table 4.1 a list of all Organised Group A Central Services in the Government of India in which the Paramilitary Forces such as BSF, CISF, SRPF and ITBP are shown at Sl. Nos. 22 to 25 respectively and the source at the bottom of the Table is stated to be the DoPT itself.

23.8. Considering the aforesaid facts and circumstances and the material on record, which came to be considered by the High Court in detail, it cannot be said that CAPFs do not constitute Organised Group A Central Civil Services/Group A Central Civil Services.

- 11.5. Thus, this Court opined that it cannot be said that CAPFs do not constitute OGAS. Insofar the other ground that was urged that CRPF is denied NFFU because the Sixth Central Pay Commission did not grant NFFU to CAPFs, this Court held thus:

24. Now, so far as another ground on which CRPF are denied NFFU that the 6th Central Pay Commission did not grant NFFU to CAPFs is concerned, it is required

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to be borne in mind that the Central Pay Commission, as such, is not authorised to define “Organised Services” or to grant such status to any service. The recommendations would be made by the Central Pay Commission on the basis of the information submitted to it by the various Departments. It appears from the material on record that right from 1986 onwards, in various Monographs CAPFs were included in the list of Group A Central Civil Services. The Government took “U” turn and a stand was taken that CAPFs are not Organised Group A Central Services and, therefore, on the basis of such a stand, the Department must have given the information to the Central Pay Commission and, therefore, the 6th Pay Commission did not recommend NFFU to CAPFs. Therefore, merely because the 6th Pay Commission did not recommend to grant NFFU to CAPFs — Group A Officers in PB-III and PB-IV, the Group A Officers in PB-III and PB-IV cannot be denied NFFU, which otherwise is granted to all the Officers of Group A Central Civil Services.

11.6. Therefore this Court held that merely because the Sixth Central Pay Commission did not recommend grant of NFFU to CAPFs, the same could not be denied.

11.7. Thereafter, this Court held that the High Court was fully justified in directing the respondents to issue requisite notification granting NFFU to the CAPFs and concluded as under:

24.2. Considering the aforesaid facts and circumstances and the objects and reasons of the grant of NFFU as recommended by the 6th Pay Commission, when the High Court has observed and consequently directed that the officers in PB-III and PB-IV in the CAPFs are Organised Group A Service and, therefore, entitled to the benefits recommended by the 6th Pay Commission by way of NFFU and thereby has directed the appellants to issue a requisite notification granting the benefits of NFFU as recommended by the 6th Central Pay Commission, it cannot be said that the

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High Court has committed any error which calls for the interference by this Court. We are in complete agreement with the view taken by the High Court.

12. Relying on the decision in *Harananda* (supra) and seeking parity with RPF, the related writ petitions were filed before the High Court seeking the reliefs as indicated above. High Court noted that it did not find any discussion or consideration by this Court on the aspect of the need for deputation at some posts in CAPFs or the qualifying term on each level of the cadre. Therefore, High Court concluded that *Harananda* (supra) was not concerned with elimination of deputation existing in CAPFs but was concerned solely with grant of NFFU. High Court was of the view that no direction could be issued for restructuring of the recruitment rules of the CAPFs by complying with attributes (iv) and (vi) of the DoPT OM dated 19.11.2009. For this, High Court relied upon the contention of the appellants in the earlier round of writ petitions that notwithstanding CAPFs not fulfilling the said attributes they were entitled to the benefit of NFFU. Besides that High Court also found that there was no similarity between RPF and other CAPFs. As such, question of discrimination did not arise. High Court further noted that respondents had set out numerous reasons justifying deputation in CAPFs but appellants did not seek any relief on that ground. Therefore, High Court refrained from adjudicating on this issue.
- 12.1. High Court thereafter considered the OM dated 19.11.2009 as well as the related OM and noted that OM dated 19.11.2009 was not for amendment of the recruitment rules of any service. Moreover, as per the said OM, CAPFs did not qualify as OGAS. Referring to the decisions in *G.J. Singh* (supra) and *Harananda* (supra), this Court observed that members of CAPFs have been held entitled to the benefit of NFFU. High Court held that recruitment rules of CAPFs are not required to be amended as a consequence of the said judgments. OM dated 15.12.2009 was in reference to the earlier OM dated 24.03.2009 whereby guidelines were issued for amendment of service rules/ recruitment rules to incorporate the changes arising out of the Sixth Central Pay Commission recommendations including bringing uniformity in eligibility criteria across all OGAS for promotions. Besides directing initiation of action for amendment of service rules *qua* eligibility criteria for promotion to Senior

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Administrative Grade level and Higher Administrative Grade level, this Court noted that CAPFs are being treated as OGAS but only for the purpose of NFFU. Neither from the judgment of the High Court in *G.J. Singh* (supra) nor of this Court in *Harananda* (supra), a directive to declare CAPFs as OGAS for all purposes whatsoever is discernible. Adverting to the DoPT OM dated 24.04.2009, High Court was of the view that the said OM was also on the subject of granting NFFU to OGAS in furtherance of the Sixth Central Pay Commission recommendations.

- 12.2. It was thereafter that the High Court considered the DoPT OM dated 08.05.2018 which was in reference to the earlier OM dated 31.12.2010 as per which recruitment rules should be reviewed once in five years with a view to affecting such changes as have become necessary to bring the recruitment rules in conformity with the changed position with further direction to immediately undertake the exercise for review of existing service rules/recruitment rules which had not been amended in the last five years.
- 12.3. Insofar challenge to cadre review is concerned, High Court declined to enter into the said controversy because as per the OMs dated 31.12.2010 and 08.05.2018, cadre review is required to be carried out in every five years; the last cadre review being carried out in the year 2016. The next cadre review was due in the year 2021. Therefore, High Court was of the view that all that was required to be done was to issue a direction to the respondents for carrying out the next cadre review in which an opportunity of hearing should be given to the cadre officers of CAPFs. Accordingly, all the writ petitions were disposed of in the following manner:
 - (I) By permitting the members of each Central Armed Police Force to, if so desire, make comprehensive representation(s) to the Ministry of Home Affairs, for amendment of the respective Recruitment Rules of each Central Armed Police Force including qua Cadre Structure, Residency, Deputation etc.
 - (II) By directing the Ministry of Home Affairs to, in compliance of the DoPT OMs dated 31st December, 2010 and 8th

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May, 2018, immediately undertake the exercise for review of existing Recruitment Rules of each Central Armed Police Force, also taking into consideration the representation(s), if any, received from the members of the Central Armed Police Forces and after giving them an opportunity of being heard and to place its decision in this regard before the Department of Personnel and Training.

- (III) By directing the Department of Personnel and Training to, immediately on receipt of decision from the Ministry of Home Affairs qua review of Recruitment Rules of respective Central Armed Police Forces, take necessary action thereon;
- (IV) By permitting the petitioners to make comprehensive representation(s) qua each Central Armed Police Force to the Department of Personnel and Training, qua the Cadre Review due in the year 2021 including as to the terms of reference if any thereof.
- (V) By directing the Department of Personnel and Training to ensure timely commencement of Cadre Review exercise due in the year 2021 and to, in the terms of reference qua Cadre Review for Central Armed Police Forces, consider incorporating the representation(s), if any, made by the members of each Central Armed Police Force and the decision of the Ministry of Home Affairs qua the review of Recruitment Rules of each Central Armed Police Force.
- (VI) By directing that the entire exercise aforesaid be concluded on or before 30th June, 2021.

13. When the related special leave petitions were filed, this Court *vide* the order dated 27.10.2020 had issued notice and stayed the impugned directions. Thereafter, learned Chamber Judge passed an order on 28.06.2021 granting leave to the officers belonging to the Indian Police Service (IPS) for being impleaded in the related batch of special leave petitions. *Vide* the order dated 05.11.2024, leave was granted.

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14. While appellants in Civil Appeal No. 13104 of 2024 (*Sanjay Prakash and Ors. Vs. Union of India and Ors.*) are officers belonging to Group-A executive cadre of the Central Industrial Security Force (CISF), appellants in Civil Appeal No. 13106 of 2024 (*Mahendra Singh Deo and Ors. Vs. Union of India and Ors.*) are officers belonging to the Border Security Force (BSF). Similarly, appellants in Civil Appeal No. 13107 of 2024 (*Tarun Kumar Banjaree and Ors. Vs. Union of India and Ors.*) are officers belonging to the Indo-Tibetan Border Police (ITBP). Appellants in Civil Appeal No. 13105 of 2024 (*Sudhir Kumar Singh and Ors. Vs. Union of India and Ors.*) are officers belonging to the Sashastra Seema Bal (SSB). Appellants in Civil Appeal No. 13108 of 2024 (*Radha Mohan Meena and Ors. Vs. Union of India and Ors.*) are officers belonging to the Central Reserve Police Force (CRPF). Finally, appellants in Civil Appeal No. 13110 of 2024 (*Dr. Jyoti Prakash Sharma and Ors. Vs. Union of India and Ors.*) are serving as Assistant Commandants in the CRPF.
15. As already noticed above, grievance of the appellants are identical though they belong to different CAPFs. Their grievance primarily relates to declaration and treating the CAPFs as OGAS and thereafter to extend the benefits available to officers belonging to OGAS like grant of NFFU, cadre review, service rule parity by amendments of the respective recruitment rules providing uniform promotional avenues. Core of the grievances of the appellants as it appears, are non-recognition as OGAS, non-grant of NFFU and service stagnation. The grievance is focused on the existing recruitment rules which provides for lateral entry into their respective services by way of deputation to various posts by officers belonging to the Indian Police Service (IPS), in the process resulting in complete stagnation in their service careers. Their contention is that once the CAPFs are declared as OGAS for all purposes, consequential steps like cadre review and restructuring of the service rules/recruitment rules will follow eliminating lateral entry, like by way of deputation, to posts upto the Senior Administrative Grade level. According to them, because of IPS officers occupying posts upto the Senior Administrative Grade, their promotional prospects are being hampered leading to stagnation in the service hierarchy.
16. Mr. Dushyant Dave, learned senior counsel, while opening the arguments on behalf of the appellants in Civil Appeal No. 13104

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of 2024 submitted that in *Harananda* (supra), this Court has unconditionally held that Group-A executive cadre of CISF as well as other CAPFs are OGAS. Once they are declared as OGAS, all the attributes of the cadre ought to be uniformized in the subsequent cadre review in accordance with the OM dated 19.11.2009 which specifically states that cadre posts of OGAS expressly belong to that service; therefore, no deputation is allowed in such a service.

16.1. He further submits that finding of the High Court that Group-A executive cadre of CISF and the other CAPFs are OGAS only for the purpose of grant of NFFU is not only erroneous but is contrary to the entire reasoning of this Court. There is no conditional or limited finding of this Court that the said services are to be treated as OGAS only for the purpose of grant of NFFU. He also refers to the clarificatory order of this Court dated 18.10.2019 holding that CAPFs as well as RPF must be treated as OGAS.

16.2. According to him, if the view of the High Court is accepted then it would not only mean overruling the judgment of the High Court itself in *G.J. Singh* (supra) but also of this Court in *Harananda* (supra). In fact, in *Harananda* (supra), this Court held as follows:

23.8. Considering the aforesaid facts and circumstances and the material on record, which came to be considered by the High Court in detail, it cannot be said that CAPFs do not constitute Organised Group A Central Civil Services/ Group A Central Civil Services.

16.3. Mr. Dave, learned senior counsel, extensively referred to the report of the Sixth Central Pay Commission and emphasized that mandate of the Sixth Central Pay Commission was not only to evolve a proper pay package for the Government employees but also to make recommendations rationalizing the governmental structure with a view to improving the delivery mechanisms for providing better services to the common man. On the evolution, growth and structure of OGAS, the Sixth Central Pay Commission observed as under:

An organised Group A Central Service represents a group of posts belonging to a distinct functional area arranged in a hierarchical order and pyramidal

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manner representing different grades or levels of responsibility. These responsibility increases with each senior level. At the time of the Second Central Pay Commission (CPC) in 1957, there were 6 Group A non-technical Services (then called Class I Services). Over the years, more of these Services were organised to manage and run a particular Branch of the Government, or a department, which in many cases was an operative role. As a result, the officers belonging to these Services develop domain expertise in their particular branch. At the same time, as officers of these services grow in their cadres, they have to shoulder higher responsibilities relating to both policy formulation and general administration. Consequently, Organised Central Services have a very good talent pool, which has both the experience of general administration policy formulation and extensive knowledge of their area(s) of specialization.

- 16.4. After observing so, the Sixth Central Pay Commission made the following recommendations:

The Commission, accordingly, recommends that the post of Additional DIG should be merged with that of DIG in the pre-revised pay scale of Rs.16400-20000. Further, all posts up to the rank of DIG should, henceforth, be filled by promotion from amongst the officers of the respective CPMFs. Fifty percent of the posts in the grade of IG/equivalent and above should be allowed to be filled on deputation with the remaining posts being filled on promotion of the eligible officers.

- 16.5. Recommendations of the Pay Commission were clear and unambiguous, he submits. All posts upto the rank of Deputy Inspector General (DIG) should be filled up by promotion from amongst the officers of the respective CAPFs. Not more than 50 percent of the posts in the grade of Inspector General (IG)/equivalent and above should be allowed to be filled up on deputation with the remaining posts being filled up by way of promotion from amongst the eligible officers.

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- 16.6. Mr. Dave submits that Government of India, Ministry of Finance (Department of Expenditure) had accepted the recommendations of the Sixth Central Pay Commission on 29.08.2008 to the effect that eligibility criteria prescribed for promotion to Senior Administrative Grade in various Group-A services should be uniform.
- 16.7. He submits that once the Central Government has made a reference to the Central Pay Commission in respect of Government employees and it had accepted the recommendations, then it is bound to implement the recommendations in respect of all Government employees. If it does not implement the recommendations *qua* certain categories of employees then it commits a breach of Article 14 and Article 16. In support of such submission, he has referred to and has placed reliance on a decision of this Court in *Purushottam Lal Vs. Union of India*⁴.
- 16.8. Regarding the effect of an office memorandum, Mr. Dave has referred to a decision of this Court in *Laljee Dubey Vs. Union of India*⁵, more particularly to paragraphs 16, 17 and 18 thereof.
- 16.9. In this connection, he has placed reliance on various OMs by the DoPT dated 24.03.2009, 24.04.2009, 19.11.2009 and 15.12.2009, whereby and whereunder all the Central Government Ministries and Departments were directed to amend the existing service rules and to grant NFFU status with effect from 01.01.2006.
- 16.10. He submits that while the Ministry of Railways had complied with the judgment of this Court *qua* RPF, the other ministries have been found to be remiss in doing so.
- 16.11. Mr. Dave further submitted that on 12.07.2019 respondent No. 4 had issued an OM concluding as under:

The RPF and Group A Executive Cadres of the following CAPFs having been treated as Organised

4 (1973) 1 SCC 651

5 (1974) 1 SCC 230

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Group A Service (OGAS) by this Department for cadre review and other related matters accordingly:

- (i) Central Reserve Police Force (CRPF)
- (ii) Border Security Force (BSF)
- (iii) Central Industrial Security Force (CISF)
- (iv) Indo-Tibetan Border Police (ITBP)
- (v) Shashstra Seema Bal (SSB)

16.12. In view of the above, first respondent is under an obligation to implement the said OM.

16.13. Mr. Dave finally submits that it is a fit case where all the civil appeals should be allowed and the respondents be directed to forthwith implement the judgment of this Court in *Harananda* (supra) as well as the OMs including the OMs dated 19.11.2009 and 12.07.2019 and thereafter grant all the consequential benefits to the appellants and similarly placed officers including grant of NFFU with effect from 01.01.2006, cadre review and amendment of the respective recruitment rules providing for 100 percent promotion upto the level of Senior Administrative (SAG) and 50 percent upto the level of Higher Administrative Grade (HAG). Making an impassioned plea, Mr. Dave submits that more than 18,000 officials of CAPFs have been fighting this litigation and waiting for justice since 2009. They are performing their duties in the service of this country under most demanding and hostile conditions. Over 153 of them have laid down their lives for defending the unity and integrity of this country while discharging their duties. It is unfortunate that the Central Government has been found wanting in respect of granting relief to the appellants as highlighted above.

17. Supporting the submissions of Mr. Dave, Mr. Shyam Divan, learned senior counsel appearing for the appellants in Civil Appeal No. 13108 of 2024 highlighted that the foundation of the case of the appellants is traceable to paragraphs 23.4 and 23.8 of this Court's decision in *Harananda* (supra). Prayers made by the appellants are required to be considered in the backdrop of what this Court declared in *Harananda* (supra). He submits that DoPT has fully accepted the *Harananda*

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(supra) judgment by issuing an OM on 12.07.2019 requiring CRPF and the other four CAPFs to be treated as OGAS for cadre issues and all other related matters.

- 17.1. Unfortunately in the impugned judgment High Court has completely ignored and made no reference to the OM dated 12.07.2019 rendering the judgment patently erroneous.
- 17.2. Despite the categorical finding of this Court and declaration made that CAPFs are indeed OGAS and acceptance of the same by the Union Government by way of OM dated 12.07.2019, High Court in the impugned judgment held that there was no general determination by this Court to treat CAPFs as OGAS for all purposes. He submits that this finding is wholly untenable. Such erroneous finding was the fulcrum of the impugned judgment but the basis is no longer valid in as much as Union of India has categorically acknowledged and accepted the position that CAPFs are indeed OGAS and in the light of the judgment in *Harananda* (supra), there can be no further debate on this issue.
- 17.3. Learned senior counsel submits that it is the stated policy of the Union Government that in respect of all OGAS, promotion upto SAG level is within the service. The argument of the respondents is that condition (iv) characteristics is absent in the case of CRPF officers. This condition is no longer relevant. Relevance of this condition is only at a stage anterior to the declaration since the OM of 19.11.2009 was indicative of certain characteristics. But now CRPF or for that matter all the CAPFs are over that stage. Consequently all future cadre reviews must be after the services rules are appropriately realigned to comport with this Court's judgment in *Harananda* (supra).
18. Mr. S. Gurukrishna Kumar and Mr. K. Parameshwar, learned senior advocates also argued on behalf of the appellants. It is their submission that pursuant to the declaration in *Harananda* (supra), it was incumbent on the Union of India through its cadre controlling authority to treat the CAPFs as OGAS. This was to be done following an exercise of cadre review whereby the recruitment rules of the services are amended every five years. It is further submitted that when the RPF has been treated as OGAS, there is no reason why the CAPFs should not be treated as OGAS. This is clearly discriminatory. They have also

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highlighted the structure of CISF as an example to illustrate as to how the service officers are suffering stagnation due to lack of vacancies in the SAG and above because of holding of such posts by officers belonging to the IPS brought in by way of deputation.

19. Ms. Aishwarya Bhati, learned Additional Solicitor General of India representing Union of India and the official respondents has made a subtle submission. According to her, High Court in *G.J. Singh* (supra) and this Court in *Harananda* (supra) had declared that CAPFs should be treated as OGAS and consequently granted benefits arising from the recommendations of the Sixth Central Pay Commission i.e. grant of NFFU. It was argued on behalf of Union of India that CAPFs were not OGAS since they did not possess all the attributes as required by the DoPT OM. On the same grounds, the Sixth Central Pay Commission had also not recommended NFFU to the CAPFs. This Court declared that a service can be an OGAS even if does not possess all the attributes of an OGAS. Deputation of IPS officers is a minor deviation which is allowed in terms of DoPT OM dated 19.11.2009. This Court however clarified that the decision in *Harananda* (supra) will not affect the IPS deputations/deputationists.
 - 19.1. Learned Additional Solicitor General submits that the above two judgments do not declare CAPFs as OGAS but only declare that CAPFs in the past have been treated as OGAS thus entitling them to the grant of NFFU. High Court as well as this Court only directed the Central Government to issue requisite notification granting the benefit of NFFU as recommended by the Sixth Central Pay Commission to the members of the CAPF. There are no further directions to take consequential steps for making the CAPFs comply with all the attributes of OGAS in terms of the DoPT OM dated 19.11.2009.
 - 19.2. Turning to the impugned judgment she submits that High Court was justified in holding that the claim of the appellants do not flow from the said judgments. High Court is right in holding that the appellants have failed to show that the benefits of OGAS enures to them independent of the relied upon judgments.
 - 19.3. Learned Additional Solicitor General submits that the present batch of appeals are nothing but an attempt to reagitate the same grievance by seeking to inject the six attributes in terms of the DoPT OM dated 19.11.2009 into the CAPFs. The initial

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argument was that for declaring the CAPFs as OGAS they did not possess all the six attributes in terms of the OM dated 19.11.2009. In a complete u-turn, it is now contended that since the CAPFs are OGAS they must possess all the six attributes for which consequential directions should be issued.

- 19.4. It is submitted that recruitment rules of each force are formulated keeping in mind the peculiarity/functionality of each of the services. Each of the CAPF has a different role to play in the security scenario of the country. Functional attributes of each of them cannot be identical. Therefore, it does not follow from being declared as OGAS that all the CAPFs must acquire all the six attributes.
- 19.5. The issue that came up for consideration in *G.J. Singh* (supra) and *Harananda* (supra) was limited to grant of NFFU which was initially denied on the ground that CAPFs did not possess the six attributes required for designation as an OGAS. It was the contention of the appellants in the previous round that despite the deviations from the attributes mentioned in the OM dated 19.11.2009, CAPFs had been treated as OGAS and, as such, were entitled to grant of NFFU. She submits that NFFU and Non-Functional Selection Grade (NFSG) have been granted to all those officers who meet the eligibility criteria.
- 19.6. She submits that the present batch of appeals is premature. High Court *vide* the impugned judgment had given liberty to the appellants to file representations for cadre review which was directed to be completed by June, 2021. However because of the stay granted by this Court on 27.07.2020, the process has been kept in abeyance.
- 19.7. She has also highlighted the different functional requirements of each of CAPFs and the allowances and benefits availed of by them which are not available to other OGAS. Therefore, in view of the peculiarity of different services, complete uniformity across all services may not be feasible or even desirable. Each service cannot have an identical cadre structure. DoPT never intended this. The cadre controlling authority, in this case Ministry of Home Affairs, in consultation with the DoPT and the Department of Expenditure determines the cadre structure

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and manpower planning following laid down procedure. These decisions are based on an organization's specific needs. Decisions regarding promotional prospects, application of the deputation norm, etc. are part of executive policy making guided by functional, operational, organizational and personal requirements of the CAPFs.

- 19.8. Ms. Bhati submits that framing/ review of recruitment rules is a legislative function whereas cadre review exercise is an executive function. In a policy matter as well as in a matter within the legislative field, this Court may not issue any mandamus.
- 19.9. Recruitment rules of the CAPFs have been framed keeping in view the functional requirement of each of the CAPFs. Being an armed force of the Union, the purpose is to keep each of the CAPFs fit for fighting as well as to ensure coordinated action between the States and the Centre within the federal framework of our country. Therefore, deputation of IPS officers is necessary. Service conditions of CAPFs cannot be structured like civilian OGAS. In the above backdrop, Ministry of Home Affairs had sought exemption from the DoPT for OMs dated 24.04.2009, 19.11.2009 and 15.12.2009. In its reply DoPT stated that the OGAS can be broadly classified in four different categories, each having some common features and some unique features. It is for the cadre controlling authority to decide what is the appropriate structure. OMs dated 24.04.2009 and 15.12.2009 were issued prior to CAPFs being declared as OGAS. Now, CAPF has emerged as a fifth category of OGAS. In this case DoPT observed that: all the attributes of an OGAS perhaps cannot be imposed on the CAPFs, as MHA being the cadre controlling authority in case of CAPFs, is best aware of the functional requirements of each component services within CAPF and accordingly create a cadre structure that is ideally suited to perform the function and tasks for which that service has been set up and for its administration. Therefore, DoPT concluded that there may not be a need to grant any formal exemption from the operation of OMs dated 24.03.2009, 24.04.2009 and 15.12.2009 in respect of CAPFs, as sought for by the MHA.

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- 19.10. She submits that CAPFs are different from other civilian OGAS as these are forces consisting of ground troops, deployed at various locations for different purposes like guarding and patrolling the border, internal security, law and order, conducting elections and performing other important duties. These are vital for national security. These ground troops consist mostly of lower ranks from Constables upto Inspectors. As a matter of fact, in CRPF, 98 percent of the force is constituted by these ranks, 1.5 percent by GD officers and 0.5 percent are others like doctors, ministerial, engineering, etc. IPS officers are important part of this hierarchy. Since CAPFs are deployed in various states, IPS officers are essential for the effective operation of CAPFs facilitating cooperation with the concerned State Governments and their respective police forces thus preserving the federal structure. IPS being an all India service, both in respect of the Union and the States, a certain number of posts in different police organizations and other organizations of the Central Government are filled up by IPS officers allotted to various state cadres on the basis of central deputation for a tenure. IPS officers play a crucial role while coordinating between the Central Government and the State Governments.
- 19.11. She finally submits that Ministry of Home Affairs as the cadre controlling authority is well aware of the functional needs and has decided to maintain the current cadre structure of CAPFs. Any change in the present structure of CAPFs will have far-reaching implications. She submits that taking an overall view of the matter, the present batch of appeals may be dismissed.
20. Submissions were made on behalf of Indian Police Central Service Association. Learned counsel representing the association has supported the stand taken by the learned Additional Solicitor General. It is submitted that IPS officers are recruited keeping in view the demands of both the Central Government and the State Governments. Accordingly, 40 percent of the sanctioned strength of IPS in a state cadre is earmarked for central deputation reserve offering IPS officers to the Central Government to man various police and other organizations of the Central Government on deputation. IPS officers

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play an important role in the overall internal security architecture of the country besides coordinating between the Central Government and the State Governments when CAPFs are deployed.

- 20.1. Each recruitment rules of the different CAPFs framed under their respective statutes provide for deputation of IPS officers. These recruitment rules are statutory in character and cannot be overridden by administrative guidelines like the DoPT OM. Functional and operational requirements of CAPFs necessitate deputation of IPS officers bringing in valuable additions to internal security and law and order duties, besides coordination with state police forces. This Court in *Harananda* (supra) explicitly clarified that its decision did not impact the rights of IPS officers for deputation to CAPFs.
- 20.2. Learned counsel has also sought to distinguish CAPFs from RPF. The two do not stand on the same footing.
- 20.3. He, therefore, submits that all the appeals being misconceived, should be dismissed.
21. Similar submission was made on behalf respondent No.5 who is an IPS officer and who got himself impleaded in the present proceeding.
22. Submissions made by learned counsel for the parties have received the due consideration of this Court.
23. As we have seen, the genesis of the dispute, rather grievance of the appellants, started with the recommendations of the Sixth Central Pay Commission. We have already examined the relevant portion of the recommendations. Commission noted that Group-A civil posts in the Central Government can be broadly categorized into two: firstly, those included in OGAS and those which are not part of OGAS and hence classified as GCS Group-A. After an exhaustive analysis of grade evaluation, growth and structure of OGAS, Commission noted that through the mechanism of cadre review leading to cadre restructuring, most OGAS have got more posts created at Senior Administrative Grade and Higher Administrative Grade levels. However, it was noted that notwithstanding such cadre reviews and restructuring of service rules, most of the services still had a great degree of stagnation at the level of Senior Administrative Grade and Higher Administrative Grade. Sixth Central Pay Commission noted the disparity as far as appointment to various grades are concerned and recommended

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that in order to bring in uniformity, eligibility criteria should be uniform across various OGAS.

24. Ministry of Finance in the Department of Expenditure, Government of India accepted the recommendations of the Sixth Central Pay Commission submitted on 24.03.2008. As regards the recommendations of the Commission that whenever any Indian Administrative Service (IAS) officer of a particular batch is posted at the centre to a particular grade carrying a specific grade pay in the pay bands of PB-3 or PB-4, grant of higher pay scale on non-functional basis to the officers belonging to batches of organized Group-A services that are senior by two years or more should be given by the Government. This recommendation was accepted by the Government of India with the further clarification that this will also be applicable to the Indian Police Service (IPS) and the Indian Forest Service (IFS) in their respective state cadres for which the relevant cadre controlling authority will issue the orders.
 - 24.1. Another recommendation of the Sixth Central Pay Commission that eligibility criteria prescribed for promotion to Senior Administrative Grade in various Organized Group-A Service (OGAS) should be uniform was also accepted by the Government of India.
25. This takes us to the OM dated 24.03.2009 of the DoPT which was issued to carry out the recommendations of the Sixth Central Pay Commission. By the said OM, DoPT laid down the steps that were required to be taken to amend the existing service rules/recruitment rules of the different services. All the ministries/departments were requested to effect necessary amendments to the service rules/recruitment rules by following the laid down procedure to bring the service rules/recruitment rules in sync with the recommendations of the Sixth Central Pay Commission.
26. DoPT issued another OM dated 24.04.2009 relating to non-functional upgradation for officers of OGAS in Pay Band-3 and Pay Band-4 consequent upon acceptance of the recommendations of the Sixth Central Pay Commission.
27. Now we come to the OM dated 19.11.2009 of the DoPT which is by way of clarification *qua* attributes of OGAS. We have already extracted relevant portion of the OM dated 19.11.2009. This OM was necessitated in view of large number of representations being received either seeking clarification about the attributes and definition

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of OGAS or seeking grant of status as OGAS and consequential benefits flowing therefrom. Cases were filed in different courts claiming the status of OGAS and consequential benefits. DoPT stated that attributes of an OGAS are clearly laid down in existing monogram of cadre management published by the DoPT. However, as a clarificatory measure, those attributes were restated which we have extracted in the earlier part of the judgment. Attribute No. (iii) says that atleast 50 percent of vacancies in the Junior Time Scale (JTS) in such services are required to be filled by direct recruitment. As per attribute No. (iv), all the vacancies above JTS and upto Senior Administrative Grade level in such services are to be filled up by promotion from the next lower grade. In terms of attribute No. (v) while a service may comprise one or more distinct grades, all such cadres should be governed by composite service rules facilitating horizontal and vertical movement of officers of a particular cadre atleast up to the level of Senior Administrative Grade. The cadre posts of an organized service (OGAS) expressly belong to that service. Attribute No. (vi) explains that such service consists of two distinct components viz. Regular Duty Posts and Reserves. Reserves are generally of four types: (i) Probationary Reserve (ii) Leave Reserve (iii) Training Reserve and (iv) Deputation Reserve. These reserves are usually created and accounted for in the JTS. It was clarified that existing OGAS have evolved over a period of time and may have minor deviations owing to their respective functional requirements. Those services which have already been declared as OGAS need not be reviewed.

28. OM dated 15.12.2009 of DoPT deals with amendment of the service rules/recruitment rules in OGAS pursuant to recommendations of the Sixth Central Pay Commission. It says that Sixth Central Pay Commission had recommended for bringing uniformity in eligibility criteria across various Organized Group-A Services (OGAS) for promotion. The issue was examined whereafter a decision was taken to amend the existing service rules/recruitment rules by incorporating the following:

1. For promotion to SAG level, the requirement shall be:

officers in the JAG with 8 years regular service in the grade including NFSG or officers with 17 years regular service in Group A posts in the service out of which atleast 4 years regular service should be in JAG (including service rendered in the NFSG of JAG).

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1.1. Likewise, for promotion to HAG level, the eligibility requirement shall be:

officers in the SAG with 3 years regular service in the grade or officers with 25 years regular service in Group A posts in the service out of which atleast 1 year regular service should be in the SAG.

29. OM dated 14.12.2010 deals with cadre review of Central Group-A Services. Clause 5 (i) stipulates that every cadre should be reviewed once in every five years. Review should be first carried out by the cadre controlling authority preferably in consultation with the representatives of the services/cadre in question. Thereafter, the procedure for cadre review is laid down.
30. This brings us to the decision of the High Court in *G.J. Singh* (supra). The decision impugned in the writ petitions was the rejection by the respondents of the request of the petitioners belonging to CRPF, BSF and ITBP for grant of NFFU as applicable to other Group-A officers. High Court observed that the crux of the dispute was the classification of the Central Government Group-A Services as organized or otherwise and whether the officers of CAPFs are part of Organized Group-A Services i.e. OGAS. High Court was of the view that issue in those batch of writ petitions was not fixation of pay scale but whether the Central Government had, at any time, acknowledged or stated that such officers of CAPFs formed a part of OGAS. High Court noted from an analysis of the materials on record that the Central Government itself had admitted way back on 29.10.1986 that BSF and CRPF are organized services; rather used them as examples of organized services. Thereafter, Central Government had through its own process classified BSF, CRPF, ITBP and CISF as being at par with each other in 1986, 1993 and 2010 monographs wherein the aforesaid CAPFs have been shown as part of the same Group-A Central Civil Services. Referring to the six attributes which the Central Group-A Services need to possess in terms of the OM dated 19.11.2009 to be considered as OGAS, High Court noted that as per the own admission of the respondents, these attributes are merely traits/characteristics and are not sacrosanct. Even the note in the OM dated 19.11.2009 provides for minor deviations from these attributes. Thereafter, High Court declared that officers in PB-3 and PB-4 in the CAPFs belong to OGAS. Hence, consequential benefit

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should be extended to them including by way of NFFU. High Court held thus:

86. The issue of acknowledging the petitioners as OGAS has been pending for some time like a festering wound. From the preceding discussion, the Court would note although from the government records it can clearly be seen that the Petitioners have over and over again been recognised as OGAS, an element of obfuscation has been kept alive. It cannot be overemphasised that in matters relating to the armed forces and the paramilitary/CAPFs there ought to be clarity and certainty apropos the service benefits which the forces would be entitled to. An element of greater dispatch in taking decisions governing their service conditions would always be requisite. Therefore, to the extent that the OM dated 19/20.11.2009 and OM dated 28.10.2010 themselves leave scope for interpretation, it could well be said that there is a level of arbitrariness in them. The government having repeatedly acknowledged the Petitioners in their various communications as belonging to OGAS cannot be allowed to reprobate there from.

87. In view of the above, the Court is of the view that the petitioners, i.e., officers in PB-3 and PB-4 in the CAPFs (CRPF in the present instance) have been categorised under Organised Group 'A' Service ever since the year 1986. Hence, the benefits contemplated by the 6th CPC by way of NFFU to remove disparity between All India Services and other Organised Central Group 'A' Services, ought to be granted to them. Accordingly, the impugned OM dated 28.10.2010 and all other letters whereby the petitioners' request for the grant of NFFU was rejected, cannot be sustained and are hereby quashed.

88. In view of the above, the Writ Petitions are allowed. The respondents shall issue requisite notification granting the benefits of Non Functional Financial Upgradation as recommended by the 6th Central Pay Commission to the Petitioners within eight weeks from this order.

31. This came to be challenged by the Union of India in *Harananda* (supra). This Court formulated the issue in the appeals as being

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non-grant of NFFU to officers/employees serving in the CRPF which was denied solely on the ground that CRPF is not an OGAS and, therefore, not entitled to NFFU. This Court noticed that considering the materials on record, more particularly, the monographs published by the DoPT right from 1996 till date, CAPFs have been shown as part of the Central Group-A Services after conducting the exercise of cadre review etc. by the DoPT. All throughout CAPFs have been shown to be part of Central Group-A Services. Therefore, it was not open to the DoPT not to consider and/or treat the CAPFs as Organised Group-A Services. This Court concluded that it cannot be said that CAPFs do not constitute OGAS. Paragraphs 23.4 and 23.8, being the fulcrum of the appellants case, are extracted hereunder:

23.4. Considering the material on record, more particularly, the Monographs published by the DoPT right from 1986 till date, CAPFs have been shown to be a part of the Central Group A Services. CAPFs have been shown as a part of the Central Group A Services after conducting the exercise of cadre review, etc. by the DoPT. Therefore, all throughout from 1986 till date, in the Monographs published by the DoPT, CAPFs have been shown to be a part of Central Group A Services. Therefore, thereafter it would not be open for the DoPT not to consider and/or treat the CAPFs as an Organised Group A Services.

* * * * *

23.8. Considering the aforesaid facts and circumstances and the material on record, which came to be considered by the High Court in detail, it cannot be said that CAPFs do not constitute Organised Group A Central Civil Services/ Group A Central Civil Services.

- 31.1. In paragraph 24.2 of *Harananda* (supra), this Court held that High Court was right in observing and consequently directing that officers in PB-3 and PB-4 in the CAPFs belong to OGAS and, therefore, entitled to the benefits recommended by the Sixth Central Pay Commission by way of NFFU, further directing the respondents to issue requisite notification granting NFFU to such officers of the CAPFs as recommended by the Sixth Central Pay Commission. This Court declared that it was in complete agreement with the view taken by the High Court.

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32. From the above, what is discernible is that immediate grievance of the appellants in the aforesaid batch of civil appeals was the rejection of their claim to NFFU, the basis of such rejection being refusal of the Central Government to treat the CAPFs as belonging to OGAS. However, this Court while framing the issue for consideration went to the root of the dispute and declared that for all intent and purposes, CAPFs belong to OGAS. From a careful reading of the judgment of this Court in *Harananda* (supra), we have no doubt in our mind that such declaration by this Court was not confined only to the grant of NFFU but in respect of the status of the CAPFs as OGAS.
33. Following the same, DoPT issued OM dated 26.03.2019 calling upon the cadre controlling authorities for the RPF and CAPF i.e. Ministry of Railways and Ministry of Home Affairs respectively to send detailed modalities on all issues/directions as per the decision of this Court in *Harananda* (supra) in the matter of organized status and consequential benefit of NFFU to enable implementation at the earliest.
34. In this proceeding, we are not concerned with the OM dated 08.04.2019 dealing with RPF. Nonetheless, it may be mentioned that *vide* the said OM dated 08.04.2019 of the Railway Board, Ministry of Railways, judgment of this Court in *Harananda* (supra) has been implemented by taking the relevant steps, such as, notifying RPF as OGAS, restructuring of RPF cadre and to revise the recruitment rules of RPF in consultation with the Union Public Service Commission (UPSC). This was followed by OM dated 12.04.2019.
35. However, what is of crucial significance is the OMs dated 04.07.2019 and 12.07.2019 of DoPT. Subject-matter of OM dated 04.07.2019 is grant of benefit of NFFU and Non-Functional Selection Grade (NMSG) to Group-A executive cadre officers of CAPFs considered by the courts as belonging to OGAS. The said OM mentioned that approval of the competent authority has been conveyed to the grant of OGAS to Group-A executive cadre officers of CAPFs and consequently benefits of NFFU w.e.f. 01.01.2006 and NMSG at the rate of 30% of Senior Duty Posts (SDP) w.e.f. 06.06.2000. Director Generals of CAPFs were therefore directed to extend the benefits of NFFU and NMSG to the eligible Group-A executive cadre officers of CAPFs by taking immediate necessary action for implementation.

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36. By way of the OM dated 12.07.2019, it was stated that Ministry of Home Affairs and Ministry of Railways *vide* their respective letters dated 04.07.2019 and 11.07.2019 had conveyed the approval of the competent authority to grant of OGAS status to Group-A executive cadre officers of CAPFs and RPF and consequential benefits of NFFU w.e.f. 01.01.2006 and NFSG @ 30% to Senior Duty Posts (SDP) w.e.f. 06.06.2000 respectively. Further, it has been mentioned that RPF and Group-A executive cadres of the CAPFs have been treated as OGAS by the DoPT for cadre review and other related matters. Relevant portion of the OM dated 12.07.2019 reads as under:

2. In compliance of the above mentioned judgment dated 5.2.2019 of the Hon'ble Supreme Court, the Ministry of Home Affairs and Ministry of Railways *vide* their references cited above, have conveyed the approval of the competent authority to grant of OGAS status to RPF and to Group A Executive Cadre Officers of CAPFs and consequential benefits of NFFU with effect from 1.1.2006 and NFSG at 30% of Senior Duty Post (SDP) with effect from 6.6.2000 respectively.

3. The RPF and Group A Executive Cadres of the following CAPFs having been treated as Organised Group A service (OGAS) by this Department for cadre review and other related matters accordingly.

- (i) Central Reserve Police Force (CRPF)
- (ii) Border Security Force (BSF)
- (iii) Central Industrial Security Force (CISF)
- (iv) Indo-Tibetan Border Police (ITBP)
- (v) Sashastra Seema Bal (SSB)

37. After issuance of OM dated 12.07.2019 treating the CAPFs as OGAS for cadre review and other related matters, the scope of the dispute has considerably narrowed down; rather, we can say that there is hardly any dispute left now for adjudication. Unfortunately, this OM dated 12.07.2019 was not taken note of by the High Court while disposing of the related writ petitions filed by the appellants *vide* the impugned judgment dated 27.07.2020. High Court had rendered its judgment one year after the OM dated 12.07.2019 was issued.

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Failure to consider this OM has materially affected the adjudication by the High Court.

38. Now that the scope of the *lis* has considerably narrowed down, it will be useful to highlight the grievances expressed by the appellants all this while. Since we have focused primarily on Civil Appeal No.13104 of 2024 (*Sanjay Prakash and Ors. Vs. Union of India and Ors.*) which in turn is concerned with CISF, we may have a glance at the posts in the CISF in terms of hierarchy which is produced below in the form of a statement:

Grades	CORRESPONDING RANKS IN	
	CISF	OTHER CAPFs
Apex Grade	Director General (DG)	
Higher Administrative Grade (HAG)	Additional Director General (ADG)	
Senior Administrative Grade (SAG)	Inspector General (IG)	
Super Time Scale	Deputy Inspector General (DIG)	
Junior Administrative Grade (NFSG)	Senior Commandant	Commandant
Junior Administrative Grade (JAG)	Commandant	Second in Command (2IC)
Senior Time Scale (STS)	Deputy Commandant (DC)	
Junior Time Scale (JTS)	Assistant Commandant (AC)	

39. Thus, we find that in the Junior Time Scale is the post of Assistant Commandant; Deputy Commandant is in the grade of Senior Time Scale. Commandant and Senior Commandant are included in Junior Administrative Grade with Senior Commandant being granted NFSG. Deputy Inspector General (DIG) is placed in the Super Time Scale Grade, whereas Inspector General (IG) is placed in the Senior Administrative Grade (SAG). Therefore, posts upto Inspector General are at the level of SAG or below. Additional Director General (ADG) is placed in the Higher Administrative Grade (HAG). The topmost post is Director General (DG).

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40. According to the appellants, the existing Group-A executive cadre of CISF mirrors a pyramid with fewer posts at the top of the hierarchy in comparison to the number of posts at the bottom. But the grievance is that the senior posts are filled up mostly by way of deputation from amongst officers belonging to the IPS. As one moves up in the hierarchy, number of deputation posts in Group-A executive cadre increases. In other words, it is the case of the appellants that number of posts and the percentage of deputation are inversely proportional. In this respect, appellants have placed the following chart in tabular form depicting the cadre structure and how the cadre posts are filled up:

Rank	Total positions	Division of Group A Executive Cadre posts			
		As percentage		Numbers	
		Deputation	Cadre	Deputation	Cadre
DG	1	100%	Excluded	1	0
ADG	4	75%	25%	3	1
IG	16	50%	50%	8	8
DIG	67	30%	70%	20	47
Sr. Commandant	81	Promotion failing which by deputation		NIL	81
Commandant	125			NIL	125
Deputy Commandant	344	2% absorption failing which by promotion	98%	NIL	344
Assistant Commandant	639	2% absorption failing which by promotion	98%	NIL	639

41. Appellants have stated that their grievance *qua* stagnation in service in contrast to the upward mobility of the deputationists, being IPS officers who have far more lenient and relaxed eligibility criteria for appointment in Group-A executive cadre, has been taken note of by this Court in *Harananda* (supra). Appellants have depicted the grievance by way of a chart highlighting the differential requirement

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of residency period for promotion and appointment against a cadre post for cadre officers *vis-a-vis* deputationists. The chart is as under:

Promotion		Total qualifying service (in years) required for promotion in	Central Deputation for IPS	
From	To	CISF as per existing RRs (GCS Group A)	Level	Minimum length of service in the IPS for eligibility for central deputation
ADG	DG	Excluded	DG	30
IG	ADG	30	ADG	26
DIG	IG	24	IG	18
Senior Commandant	DIG	20	DIG	14
Commandant	Senior Commandant	15*	SP	7
DC	Commandant	11		
AC	DC	06	-	-

42. Appellants have also illustrated their service stagnation due to lack of vacancies by highlighting the same in a tabular format which is as under:

Rank (1)	Total Cadre Positions (2)	No. of officers eligible for promotion to the rank in Column (1) but stagnating due to lack of vacancies, eligibility reckoned under existing recruitment rules	
		From the next lower rank	Based on years of service
DG	0	1. Rules for promotion to the rank of DG yet to be framed. 2. Eligible CISF officer not promoted to the rank of ADG though vacancy exists	

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ADG	1	8	13
IG	8	59	72
DIG	47	52	53
Sr. Commandant	81	21	21
Total Officers stagnating from Batches 1987 – 2005		140	
Total Cadre Officers from Batches 1987 – 2005		153	

43. Now that the Central Government has accepted that CAPFs are included in OGAS, the natural consequences should follow. Eligible officers belonging to the CAPFs have already been granted NFFU following the decision of this Court in *Harananda* (supra). DoPT OM dated 12.07.2019 makes it abundantly clear that the CAPFs have been treated as OGAS for cadre issues and all other related matters. In other words, CAPFs are OGAS for all purposes. When CAPFs have been declared as OGAS, all benefits available to OGAS should naturally flow to the CAPFs. It cannot be that they are granted one benefit and denied the other.
44. However, we are conscious of the fact that the role of CAPFs is crucial while maintaining security at the borders of our country as well as in discharging internal security duties. There are various issues connected with the deployment of CAPFs, including coordinating with the State Governments and the state police force. Central Government in its wisdom has taken the view that presence of IPS officers in each of the CAPFs is vital to maintain the character of each of the CAPFs as a unique central armed force. This is a policy decision. Of course, individual officers belonging to the IPS or the association of IPS officers cannot have a say as to how much the deputation quota should be and how long the deputation should continue. They are there on deputation by virtue of the policy decision of the Central Government manifest through the service rules/recruitment rules of the CAPFs. Having said that we cannot also be oblivious of the grievance expressed by officers of the CAPFs as highlighted supra. Their dedicated service upholding the security, integrity and sovereignty of the nation while safeguarding our borders and maintaining internal security within the country cannot be ignored

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or overlooked. They discharge their duties under very demanding conditions. They have a grievance that because of lateral entry into the higher grades of the respective CAPFs, they are unable to get their timely promotion. Consequently, there is a great deal of stagnation. Such stagnation can adversely impact the morale of the forces. This also needs to be factored in while considering review of such policy decision.

45. Having regard to the discussions made above and now that Government of India has accepted the CAPFs as belonging to OGAS *vide* the DoPT OM dated 12.07.2019, we are of the view that the following directions would meet the ends of justice. We, accordingly, order as follows:
 1. Let the cadre review in all the CAPFs which was due in the year 2021 be carried out within a period of six months from today.
 2. Ministry of Home Affairs, Government of India shall give effect to the DoPT OM dated 12.07.2019 and undertake the exercise for review of the existing service rules/recruitment rules of each of the CAPFs. While carrying out the aforesaid exercise, representative of the cadre officers of each of the CAPFs shall be given an opportunity of being heard.
 3. Let the above exercise pertaining to review of existing service rules/recruitment rules of each of the CAPFs be carried out and completed within a period of six months from today.
 4. DoPT shall take appropriate decision after receipt of action taken report(s) from the Ministry of Home Affairs regarding cadre review and review of existing service rules/recruitment rules within a period of three months from the date of receipt of such report(s).
 5. Keeping in mind the twin objectives of service mobility of the cadre officers of CAPF thereby removing stagnation on the one hand and the operational/functional requirement of the forces on the other hand, we are of the view that the number of posts earmarked for deputation in the cadres of the CAPFs upto the level of Senior Administrative Grade (SAG) should be progressively reduced over a period of time, say within an outer limit of two years.

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6. This will bring in a sense of participation of the cadre officers belonging to the CAPFs in the decision making process within the administrative framework of the CAPFs thereby removing the long standing grievances of the cadre officers.
46. In view of the above, interim stay granted by this Court on the exercise of cadre review stands recalled.
47. All the civil appeals are accordingly disposed of in the above terms. However, there shall be no order as to cost.

Result of the case: Appeals disposed of.

[†]Headnotes prepared by: Divya Pandey