

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

+ **W.P.(C) No.5917/2002**

% **22nd May, 2015**

SUBHASH GAUR

..... Petitioner

Through: Counsel for the petitioner (appearance
not given).

Versus

UCO BANK AND ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition, petitioner who was an employee of the respondent no.1-bank has sought reliefs of promotions from Scale-I to Scale-IV posts. Petitioner in the writ petition claims that since the departmental proceedings against him stand quashed in terms of the judgment of the civil court dated 19.9.2000, Annexure P-1 to the writ petition, petitioner is entitled to consequential benefits of promotions.

2. During the course of arguments, and in terms of the counter affidavit filed by the respondent no.1-bank, it became clear that the
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promotions claimed are not automatic promotions but are promotions by selection. Petitioner was selected in terms of the result on 9.8.1988 which was kept in a sealed cover on account of disciplinary proceedings pending, and which was the result with respect to promotion of the petitioner from Scale-I to Scale-II. Respondent no.1-bank has given benefit to the petitioner of promotion from Scale-I to Scale-II but only with notional effect from 1.1.1988 and without granting the monetary benefits from 1.1.1988 to 12.6.2001. Petitioner claims that he is entitled to the difference of the monetary emoluments payable of Scale-I post and Scale-II post from 1.1.1988 till 12.6.2001. For the sake of completion of narration, it may be stated that the petitioner had appeared for promotion from Scale-II to Scale-III in the process of July, 2001 but the petitioner did not qualify. Thereafter, when promotion process was initiated from Scale-II to Scale-III for which petitioner had applied, the petitioner was successful and was thus promoted to Scale-III on 14.12.2002. Really therefore, the claim of the petitioner, and as argued before this Court, is now restricted only to claiming the difference in the monetary emoluments of Scale-I to Scale-II from 1.1.1988 till 14.12.2002.

3. In law, no doubt there is a principle of ‘no work, no pay’, however this principle is not inflexible in its application as held by the Supreme Court in the judgment in the case of *State of Kerala & Ors. Vs. E.K. Bhaskaran Pillai (2007) 6 SCC 524*. In fact, judgments of the Supreme Court go the extent of holding that if it is the employer who is responsible for not allowing the employee to join without any fault of the employee, then an employee is entitled to 100% of pay.

4. In view of the aforesaid legal position, counsel for the petitioner agrees that petitioner will be satisfied if the petitioner gets 50% of the difference of the monetary emoluments of Scale-I to Scale-II from 1.1.1988 to 14.12.2002 i.e the petitioner has received monetary emoluments of Scale-I and is only entitled to certain amounts being the difference with the higher amount payable for the Scale-II post from 1.1.1988 till 14.12.2002.

5. In my opinion, the stand taken up on behalf of the petitioner is a very fair stand, and therefore this writ petition is allowed and disposed of by directing that petitioner be granted 50% of the difference of the monetary emoluments payable between Scale-I and Scale-II posts for the period from 1.1.1988 till 14.12.2002. The amount due to the petitioner in terms of the present judgment be paid within a period of two months of the copy of the

present judgment being given to the respondent no.1. If the amounts due are not paid within two months, thereafter petitioner will be entitled to interest @ 9% per annum simple after the period of two months till the date of payment of dues of the petitioner.

6. Petition is allowed and disposed of accordingly, leaving the parties to bear their own costs.

MAY 22, 2015
Ne

VALMIKI J. MEHTA, J.