

I-14

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

Date of Decision: November 02, 2015

+ **W.P.(C) 10282/2015 & C.M. 25535-36/2015**

PUNEET KUMAR Petitioner
Through: Mr. Rakesh Tikku, Senior
Advocate with Mr. U.D.Bhargava,
Advocate

versus

THE APPAREL EXPORT PROMOTION COUNCIL AND ORS.
..... Respondent
Through: Mr. G.L. Rawal, Senior Advocate
with Mr. Kuljeet Rawal, Advocate
for respondents No.1 & 2
Mr. Vikram Jaitley, Central
Government Standing Counsel &
Mr. Sumit T Rajput, Advocate for
respondents No.3 & 4

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Vide impugned order of 21st September, 2015 (*Annexure P-13*), petitioner's salary has been refixed with retrospective effect. Petitioner had made a Representation (*Annexure P-14*) on 29th September, 2015, to which interim response of 12th October, 2015 (*Annexure P-15*) of the respondents is that the first respondent is awaiting advice from the competent authority i.e. Ministry of Textiles and Department of

Personnel & Training.

At the hearing, learned senior counsel for petitioner assailed the impugned order on the ground of *mala fides*. It was pointed out by learned senior counsel that petitioner exposed various facets of financial irregularities and bungling in the respondent-Council and the list of financial irregularities etc., as pointed out by petitioner, is annexed as *Annexure P-9A* with this petition. Attention of this Court was drawn to the Advertisement (*Annexure P-2*) to point out that the remuneration offered was dependent upon the job profile of the aspirant for the post of Secretary General of respondent-Council. As per petitioner's letter of appointment of 9th March, 2015 (*Annexure P-8*), the salary offered to petitioner was of ₹5,00,000/- p.m., which excluded the House Rent Allowance, Medical and other allowances. It was asserted on behalf of petitioner that in terms of the appointment letter, petitioner had been getting salary as offered by respondent-Council but due to the irregularities pointed out by petitioner in the functioning of respondent-Council, its Executive Committee in the meeting of 10th April, 2015 (*Annexure P-12*) malafidely resolved that petitioner's pay be refixed in terms of the last pay drawn by petitioner prior to his appointment in the respondent-Council. It was pointed out that petitioner's last pay scale was routinely indicated in the letter of 28th November, 2013 written by Ministry of Textiles granting Government's approval to appointment of petitioner to the post of Secretary General in respondent-Council and the same cannot be made the basis to refix the pay of petitioner after a period of two years or so. Thus, quashing of the impugned order is sought in this petition.

This petition is staunchly opposed by learned counsel for respondent-Council who submits that this petition is premature, as petitioner's Representation (*Annexure P-14*) is still pending and the advice of the competent authority is awaited and as soon as the advice is received, petitioner's Representation would be promptly decided.

In the facts and circumstances of this case, it is deemed appropriate to dispose of this writ petition with direction to respondent-Council to decide petitioner's Representation (*Annexure P-14*) by passing a speaking order after the requisite advice is received by the respondent-Council. Needless to say, third respondent i.e. Ministry of Textiles shall ensure that the requisite advice is promptly forwarded to respondent-Council to enable it to decide petitioner's Representation with promptitude.

In the facts and circumstances of this case, it is directed that till petitioner's Representation (*Annexure P-14*) is decided by respondent-Council, impugned order (*Annexure P-13*) as well as Resolution (*Annexure P-12*) be not acted upon.

With aforesaid directions, this petition and application are disposed of.

(SUNIL GAUR)
JUDGE

NOVEMBER 02, 2015

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