

**211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.9038 of 2014 (O&M)
Date of decision : October 25, 2016**

R.K. Bansal

..... Petitioner

Versus

Union of India and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. C.M. Chopra, Advocate for the petitioner.

Mr. Amit Sheoran, Advocate for UOI-respondent No.1.

Mr. A.S. Virk, Advocate for respondent No.2.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner R.K. Bansal was working as Professor Civil Engineering in the National Institute of Technology, Kurukshetra, which is centrally funded institution. He has retired from service on 28.02.2011 after attaining the age of superannuation i.e. 65 years.

In the present petition, petitioner claims that the benefits of Academic Grade Pay (for short 'AGP') of ₹12,000/- p.m. should be allowed to him w.e.f. 01.01.2006 and seeks quashing of order dated 25.02.2014 (Annexure P-16), vide which the claim of the petitioner was rejected. He also seeks one additional increment, as per the Circular dated 19.03.2012 (Annexure P-6) w.e.f. 01.01.2006.

Petitioner claims that as per Circular dated 31.12.2008 (Annexure P-1), the Professors in the University would be in the higher AGP w.e.f. 01.01.2006. The Government of India after taking into

consideration the recommendations of Govardhan Mehta Committee, revised the pay of teaching and other staff of Centrally Funded Technical Institutions following the pay revision of the Central Government Employees on the recommendations of 6th Central Pay Commission. Consequently, the Notification No.F.No.23-1/2008-TS-II, dated 18.08.2009 (Annexure P-2) laid down that up to maximum of 20% of the sanctioned posts of the Professors shall be placed in the Pay Band-4 in the AGP of Rs.12,000/- per month after regular service of 6 years as Professor in the AGP of ₹10,000/- and that the minimum pay in the pay band will be fixed at ₹48,000/- per month. The revised pay scale was made effective from 01.01.2006 and the other allowances were made effective from 01.09.2008.

The petitioner stood at Sr. No.2 of the seniority list as per seniority list (Annexure P-3). Therefore, he is covered under 20% and is entitled to AGP of ₹12,000/- w.e.f. 01.01.2006 but the same was not released to him.

It is further claimed that as per Notification dated 19.03.2012 (Annexure P-6), the Central Government Employees, who were due to get their annual increment between February to June, 2006 were granted annual increment on 01.01.2006 in the pre-revised pay scale as a one time revised pay scale on 01.07.2006. Therefore, the petitioner is also entitled to one additional increment.

In the reply, it is stated that Ministry of Higher Education Technical Section-II, vide letter No.23-1/2008-TS.II, dated 18.08.2009 revised the pay scale of teaching and other staff in Centrally Funded Technical Institutions following the pay revision of Central Government

Employees on the recommendations of 6th Central Pay Commission, whereby under Clause 2(d) for NITs, it was provided that up to maximum of 20% of the sanctioned posts of Professors shall be placed in PB-4 in the AGP of ₹12,000/- per month after regular service of 6 years as Professor in AGP of ₹10,000/- and the minimum pay in the pay band will be fixed at ₹48,000/- per month.

However, vide another letter of same number, dated 26.08.2010, it was provided that the movement of Professors to AGP ₹12,000/-, as per letter dated 18.08.2009, would be effected from the date of issue of orders and the same would not be effective from 01.01.2006. Subsequent letter of same number, dated 15.09.2010, the Government decided to abolish AGP of ₹12,000/- per month and further decided to extend HAG scale of ₹67,000-79,000/- without any grade pay in place of AGP of ₹12,000/- per month, to be effective w.e.f. 18.08.2009.

The aforesaid three letters are Annexurs R-2/1 to R-2/3 respectively. It is stated that HAG revised pay scale of ₹67,000-79,000/- without any AGP to the Professors of the Institute was granted by the Board of Governors on 07.02.2011. It was further stated that the petitioner was drawing pay of ₹22,400/- at the maximum in the pay scale of ₹16,400-22,400/- w.e.f. 01.05.2005. Proviso added to Rule 10 of CCS(Revised Pay) Rules, 2008 provides for grant of increment to the employees drawing maximum of the pay in the pay scale for more than one year as on 01.01.2006.

It is also stated that Under Rule 10, the petitioner was not to get next increment till 01.05.2007. Therefore, he was not eligible for the

additional increments as per letter 19.03.2012 (Annexure P-6) and the same was rightly declined.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Admittedly vide letter No.F.No.23-I/2008-TS.II, dated 18.08.2009 (Annexure R-2/1) under Clause 2(d), up to maximum of 20% of the sanctioned post of Professors shall be placed in PB-4 in the AGP of ₹12,000/- per month after regular service of six years as Professor in the AGP of ₹10,000/- and the minimum pay in the Pay Band will be fixed at ₹48,000/- per month. This revision was to be effected from 01.01.2006. Admittedly, the petitioner being No.2 in the seniority list was covered under the said 20%. As per letter dated 18.08.2009 (Annexure R-2/1), he was entitled to AGP of Rs.12,000/- per month w.e.f. 01.01.2006.

Now, it comes out that later on, vide another letter of the same number dated 26.08.2010 (Annexur R-2/2), while referring to the letter dated 18.08.2009 (Annexure R-2/1), it was decided that movement of Professors from AGP of Rs.10,500/- to AGP of ₹12,000/- [as mentioned at para {1(iv) 3 }and para 2(d) of the order dated 18.08.2009] would be effective from a prospective date i.e. from the date of issue of orders and as such it would not be effective from 01.01.2006.

The effect of the letter dated 26.08.2010 (Annexure R-2/2), which is of the same number, goes to show that it replaces the earlier letter of the same number dated 18.08.2009. That would mean that the AGP of ₹12,000/- was to be allowed to the petitioner w.e.f. 18.08.2009 when letter Annexure R-2/1 was issued. Further, it comes out that the Government

issued subsequent letter of same number on 15.09.2010 (Annexur R-2/3), whereas while referring to the letter dated 18.08.2009 about the eligibility to movement of AGP of ₹12,000 from ₹10,500/- per month, it was decided in consolidation with the Department of Expenditure to extend the HAG scale of ₹67,000-79,000/- without any grade pay in place of AGP of ₹12,000/- per month, stipulating that AGP of ₹12,000/- per month does not exist any more. The new scales were made effective from the date of issue of order, revising the pay scale w.e.f. 18.08.2009.

Now, the claim of the petitioner is that though, he has been granted the HAG scale of ₹67,000-79,000/- w.e.f. 18.08.2009 but for the period from 01.01.2006 to 17.08.2009, he should be granted AGP of ₹12,000/-, in terms of letters mentioned above.

I am of the view that the original instructions dated 18.08.2009 (Annexure R-2/1) were replaced by another set of instructions vide letter of the same number dated 26.08.2010 (Annexure R-2/2) and the AGP was made effective from the date of the said letter i.e. 18.08.2009 and not from 01.01.2006. Therefore, for the period from 01.01.2006 to 17.08.2009, the petitioner cannot claim the AGP of Rs.12,000/- per month. Vide subsequent letter dated 15.09.2010 (Annexure R-2/3) of the same number, the AGP of Rs.12,000/- per month was replaced by HAG scale of ₹67,000-79,000/- w.e.f. 18.08.2009. The benefits of the said scale have been released to the petitioner.

Once, the instructions were revised and the ACP was made effective from the date of issuance of the letter i.e. 18.08.2009 and from the said date HAG scale of ₹67,000-79,000/- has been granted to the petitioner,

then for the period from 01.01.2006 to 17.08.2009, the petitioner is not entitled to the AGP of ₹12,000/- per month. The petitioner was rightly declined the grant of said relief by the Department.

Now, coming to the second issue regarding grant of additional increment in terms of Circular dated 19.03.2012 (Annexure P-6), I am of the view that the petitioner is not entitled to the same also. Admittedly, the date of increment of the petitioner was 01.05.2005. Vide the said circular, the date of the annual increment of the petitioner was fixed 1st July of the every year and that the employees, who completed six months and above on the revised pay scale on 1st July, will be granted next increment on the 1st July in placed of their original date of increment. Vide Annexure P-6, the Government further relaxed the rule and decided as under:

“3. On further consideration and in exercise of the powers available under CCS(RP) Rules, 2008, the President is pleased to decide that in relaxation of stipulation under Rule 10 of these Rules, those central government employees who were due to get their annual increment between February to June during 2006 may be granted one increment on 1.1.2006 in the pre-revised pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006 as per Rule 10 of CS(RP) Rules, 2008. The pay of the eligible employees may be re-fixed accordingly.”

A perusal of the above relaxation shows that those employees, who were due to get their annual increment were also granted annual increment on 01.01.2006. In the present case, since the petitioner was on the maximum of his pay scale of ₹22,400/-, therefore, he was to be granted an

increment after two years i.e. 01.05.2007, which is called stagnation increment. Accordingly, on 01.01.2006, the petitioner was not getting the same scale for the last one year and was not entitled to any increment till 01.05.2007. Thus, he is not entitled to the benefits of Annexure P-6 to get additional increment.

In view of the foregoing discussions, I do not find any merit in the present writ petition. As such, the present writ petition is dismissed.

(KULDIP SINGH)
JUDGE

October 25, 2016

sarita

Whether speaking / reasoned: Yes

Whether Reportable: No