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

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Judgement delivered on: 25.05.2016

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W.P.(C) 4172/2015

RAM LAL ADLAKHA

..... Petitioner

Through: Mr. U. Srivastava, Adv.

versus

GOVT. OF NCT DELHI AND ORS.

..... Respondent

Through: Mr. Satyakam, Adv. Addl. Standing
Counsel for Govt. of NCT of Delhi

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J (ORAL)

1. Ramlal Adlakha by this writ petition impugns order dated 12.12.2012 passed by the Principal Bench of the Central Administrative Tribunal in O.A. No. 225 of 2012.
2. The impugned order rejects the prayer made by the petitioner that he was entitled to second financial upgradation under the Assured Career Progression Scheme (ACP Scheme, for short).
3. On 16.10.1964, the petitioner was appointed as Instructor (Engineering) in the Directorate of Technical Education, in the Government of Delhi. On 07.09.1970, he was promoted and granted

pay scale of Post Graduate Teacher in the scale of Rs.550-900/-and his designation was changed to Senior Drawing Teacher. In 1975, the petitioner along with many others were declared surplus and his services were terminated with effect from 18.08.1976.

4. On 13.11.1976, the petitioner was appointed as Crafts Teacher (Works Experience Teacher) in the Directorate of Education, the Govt. of Delhi on the lower pay scale of Rs.440-750/-. Subsequently, on 28.09.1994 the petitioner was granted pay protection based on his earlier pay when his services were terminated on 18.08.1976 in the scale of Rs.550-900/- applicable to the Post Graduate Teachers. The petitioner retired from service on 31.07.2003.

5. After retirement, a dispute arose when the Govt. of Delhi made recoveries without issuance of any show cause notice on account of wrong fixation of pay. The petitioner had challenged the recoveries by filing an O.A., but did not succeed. The petitioner thereafter filed Writ Petition (C) No. 5877 of 2007 and by order dated 20.08.2007 the High Court held that the recoveries could not have been made without issuing a show cause notice and giving the petitioner an opportunity of being heard. The High Court on the issue of pay fixation had held:-

Apart from the aforesaid consideration, we also find force in the Petitioner's submission that the Respondent was wrong in its contention that the Petitioner was not entitled to draw salary of Rs.550-900. He has drawn our attention to an office order dated 28.9.1976, which shows that as per the increments to which the Petitioner was shown to be entitled as on 1st September 1975 his

revised pay was fixed at Rs.725/- which is in the revise pay scale and not in the pre-existing scale. This shows that the Petitioner was in the revised scale of Rs..550- 900 prior to the termination of his service on 18.8.1976.

A reading of the aforesaid paragraph would reflect that the High Court took notice of the office order dated 28.09.1976 and pay scale and the pay that the petitioner was drawing on the date of termination. Upon appointment as the Craft Teacher (Work Experience Teacher), the petitioner was given the lower pay scale of Rs.440-750/-. In order to grant pay protection the petitioner was granted increments so as to fix his pay at the earlier pay at Rs.725/-. This was treated as revised pay and not the pay in the pre-existing scale.

6. In the meanwhile, the pay scales were revised as a result of 4th Pay Commission with effect from 01.01.1986. The petitioner then working as Crafts Teacher (Work Experience Teacher) was placed in the revised scale of Rs.1400-2600/-. The petitioner with effect from 01.01.1986 was promoted as a Post Graduate Teacher in the scale of Rs.1640-2900/-. This was the first promotion. The said promotion was in the hierarchy and was later counted for the purpose of ACP Scheme which was introduced by the government with effect from 9th August, 1999. The petitioner by then had completed about 24 years of service. Accordingly, with effect from 09.08.1999, the petitioner was granted second financial upgradation in the pay scale of Rs.7500-12000, which was the replacement scale for the pre-revised scale of

Rs.2200-4000. Thus the petitioner was granted the second financial upgradation under the ACP Scheme.

7. It is therefore clear and shown that the petitioner had got two financial upgradations or promotions as per the promotional hierarchy. This would meet the mandates of the ACP Scheme. The petitioner accordingly is not entitled to any further financial upgradation under the ACP Scheme.

8. The writ petition is dismissed. No order as to costs.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MAY 25, 2016/acm