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

\+ W.P.(C) 10148/2015 & CM Nos.24989-24990/2015

SN DIXIT & ORS. .....Petitioners

Through: Mr. DC Vohra, Advocate

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr.SanjeevNarula, CGSC

CORAM:
HON'BLE MR.JUSTICE SANJIV KHANNA
HON'BLE MR.JUSTICE NAJMI WAZIRI

ORDER

% **13.01.2016**

The present writ petition has been filed against the final judgment and order dated 28.01.2015 of the Principal Bench of the Central Administrative Tribunal at New Delhi. The Petitioners seek direction to the Union of India/ Department of Pensioners' Welfare for increasing their pension by 300%.

The Petitioners who were employed in the Ministry of External Affairs, Government of India retired after completion of 58/60 years of their age during the years 1991-1998. Till 31.12.2005, the Petitioners were drawing pension @50% of their pay scales which were in the scale of S-12, S-19 and S-22 (hereinafter referred to as the "pre-revised pay scale") which were revised by implementation of the report and recommendations of the Sixth Central Pay Commission from 01.01.2006 (hereinafter referred to as the "SCPC"). The grievance of the Petitioners is that the percentage increase brought in their pension by the SCPC is less than the percentage increase for the pre-revised pay-scale of S-24 to S-32 and is therefore violative of the constitutional guarantee of equality under Article 14 and the guarantee against arbitrariness in Governmental action. By the impugned order, the Administrative Tribunal has rejected the contention of the Petitioners resulting in the present challenge to its order and to the pay scales as revised by the SCPC.

Before the Administrative Tribunal, the Union of India had submitted that the SCPC had recommended an entirely different pay structure from that which was prevailing earlier. Prior to the report of the SCPC, which was submitted on 24.03.2008, each post was attached to a specific pay scale and the pay scales themselves determined the status of the post. However, the SCPC recommended a structure comprising pay bands and grade pays with a view to ease stagnation and to address problems like availability of promotional avenues even if there was no functional justification for higher posts; and problems in pay fixation during movement from one scale to another as this had resulted in a senior drawing lower salary than a junior etc. It was further submitted by the Union of India that the pay bands were devised in a way that each band would comprise several pay scales. This is factually correct and cannot be doubted.

Proceeding to the disparity in the revision of pay scale, it was the Union Government's submission before the Tribunal that the Commission had recommended that 13 pre-revised pay scales upto S-27 be fitted in Pay Band-3 (Pay Band is hereinafter referred to as "PB") whereas only 5 pay scales from S-28 to S-32 were to be placed in PB-4. With the approval of the Cabinet, it was decided to setup a Committee of Secretaries to the process the recommendations of the SCPC and the objective of this Committee was to consider whether any existing relativities or parity had been disturbed or any new disparities had been created as a result of the recommendations of SCPC. The Government ultimately decided to place S-24 to S-27 also in Pay Band-4 keeping in view the fact that the minimum pre-revised pay-scale of S-24 was equivalent to S-28 i.e. Rs.14,300-22,400 and S-28 had already been placed in Pay-Band 4. Middle-level officers in S-24 to S-27 would have been at a disadvantage vis-à-vis the officers with the same minimum in S-28, which had been placed in Pay-Band 4. This had resulted in the percentage of increase admissible to the said officers.

From the aforesaid paragraphs, it is evident that the Petitioners are seeking parity with employees who were drawing a higher pre-revised pay scale than what became admissible to the officers in the grades of S-24 and S-32. Admittedly, the Petitioners before retirement were employed in the grades of S-12, S-19 and S-22 whereas they are seeking parity in percentage terms with those in grades of S-24 to S-32. The disparity in percentage increase between different pre-revised pay scales pursuant to the implementation of the report of the SCPC is merely due to the shift from a system of pay-scales to pay-bands and consequents adjustments. Moreover, the Petitioners and those drawing the pre-revised pay-scales of S-24 to S-32 were always differently situated and the Petitioners cannot therefore claim parity with altogether different pay-scales. The petitioner’s pension would be more in quantum terms than their juniors, and less than their seniors. The charts filed by the petitioners would show that increase ratio in grades S-12, S-19 and S-22 pursuant to SCPC varied between 185% to 217%. There was no uniformity in the increases inter se. Percentage of increase of grades S-24 and S-32 leave varied between 220% to 337% as per the calculations made by the petitioner. There is again no uniformity in the said increases. There are several factors and issues which would have determined the relevant and revised applicable grades and bands. The increases need not be identical and cannot be struck down on the test predicated on the criteria that all increase must be by an identical percentage. This contention alone by itself would not justify invoking Article 14 of the Constitution. We would hesitate to enter into a fishing and roving enquiry, examine the entire PB and grade structure premised only on this argument.

In fact, the logical conclusion of the argument of the Petitioners would mandate that pay-scale of all employees should be revised by the same percentage ratio which is contrary to and would negate the recommendations of the SCPC itself. The entire SCPC would have to be re-written. The Petitioners cannot claim parity and proportionate increase bench marked against the highest percentile increase as this would lead to absurdity and would fall foul of the cherished principle of equality.

In view of this, the writ petition is dismissed and CM Nos.24989-990/2016 are also disposed off.

SANJIV KHANNA, J

NAJMI WAZIRI, J

JANUARY 13, 2016
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