

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.403 of 2007

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, seeking the following relief:-

“to issue an appropriate Writ, order or direction, more particularly in the nature of Mandamus, declaring the action of the respondent authorities in not implementing the scales of Pay, after duly rectifying the anomaly in respect of ATOs & DTOs as implemented in respect of the other employees under the control of the 3rd respondent by proceedings dated 29.06.2006 and 12.07.2006 as being illegal, arbitrary, capricious, malafide contrary to F.R.22 and violative of Art.14 of the Constitution of India.’

2. I have heard the submissions of *Sri Siva*, learned counsel for the writ petitioners, and of learned Assistant Solicitor General appearing for the respondents. I have perused the material record.
3. The facts and the submissions made by the learned counsel for the petitioners and the learned Assistant Solicitor General may be summarised, in brief, as follows:

The 1st writ petitioner is Assistant Technical Officer (ATO) and the petitioners 2 to 6 are Deputy Technical Officers (DTOs) at the Security Printing Press, Hyderabad, under the control of Ministry of Finance till 10.02.2006. On the said date, the Union of India created an independent Corporation known as Security Printing and Minting Corporation of India Limited duly registered under the Companies Act, 1956, fully owned by it. The said Corporation came into being with effect from 13.01.2006. The petitioners are under the control of the said Corporation and the Corporation is responsible for their pay and emoluments attached to their respective offices. The Union of India

appointed 5th pay commission and it recommended the scales of pay of Central Government Employees in the year 1996 fixing the scales of pay of the employees and their categories and the same was implemented by the Union of India. The post of foreman (Printing) is a feeder post for the post of ATO, which in turn is a feeder post for the post of DTO. The pre-revised scales of the said three posts and corresponding part 'C' recommended scales for the said posts are as under:

S.No.	Designation	Pre-revised scale	Part-C scale recommended
1.	Foreman	1350-30-1440-40-1800-EB-50-2200	5500-175-9000
2.	Asst. Technical Officer	1400-40-1500-EB-50-2300	5000-150-8000
3.	Dy. Technical Officer	1600-50-2300-EB-60-2660	5500-175-9000

The Central Administrative Tribunal, by its order dated 30.04.2003 in OA.no.382 of 2002 directed the Government of India represented by its Joint Secretary, C & C Division, Ministry of Finance, and the General Manager, Security Printing Press, Mint Compound, Saifabad, Hyderabad, to implement the recommendations of the 5th central pay commission in respect of four categories of employees including foreman (printing). Aggrieved thereof, the Government of India and the General Manager, Security Printing Press, Mint Compound, preferred a writ petition in W.P.No.15282 of 2003 before this Court. This Court while dismissing the writ petition and confirming the said orders in the OA, *inter alia*, held as follows: 'If there is any inconsistency or anomaly, the matter ought to be referred to the anomaly Committee, which would decide the matter. Moreover, in the instance case, the persons who are affected by the implementation of the pay scales are ATOs and GTOs who did not raise

any dispute with regard to pay scales.’ The Supreme Court while dismissing petitions for Special Leave to Appeal (Civil) No.7062 of 2004 confirmed the order of the High Court. In view of the said orders, the post of foreman, which is the feeder category for the next higher post viz., ATO, which in turn is the feeder category for the next higher post, DTO, is in a higher scale of pay of Rs.5500-9000 vis-à-vis its promotion post of ATO that exists in the pay scale of Rs.5000-8000. It is not out of place to note that when the matter was earlier referred to the anomaly committee, the appropriate authorities opined that the anomaly cell of the 5th pay commission be wound up and the subject matter may be represented to the 6th pay commission. Thereafter the 6th pay commission has noted the said anomaly which has resulted on account of the Central Administrative Tribunal’s orders directing upgradation of the scale of pay of foreman (printing) from the scale of Rs.4500-7000 to Rs.5500-9000. Therefore, the commission recommended for merger of the scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 to place the post of foreman (printing) and ATO in identical scale. Thus, the commission recommended that the posts should be merged and that the next higher post of DTO in the scale of Rs.6500-10500 shall consequently be upgraded to Rs.7450-11500 corresponding to the revised pay band PB-2 of Rs.8700-34800 along with grade pay of Rs.4600-00.

4. Thus, there is an anomaly and the anomaly has to be rectified insofar as the writ petitioners are concerned is now not in dispute. Subsequently, by an order dated 18.09.2008 the Deputy Secretary to the Government of India, Ministry of Finance, Department of Economic Affairs, (Currency and Coinage Division), in his order *inter alia* observed that in case where two or more posts in the same hierarchy have been

placed in the same pay band and grade pay, such posts shall stand merged with effect from 1st January, 2006, and the designations and Recruitment Rules shall be modified accordingly. Therefore, while accepting the anomaly and rectifying the anomaly, the benefit of fixation of pay and emoluments was extended from 01.01.2006 instead of from 01.01.1996 from which date the anomaly has resulted.

5. The grievance of the writ petitioners is that similar anomalies in the case of other employees similarly placed under the control of the 3rd respondent were rectified by proceedings dated 29.06.2006 and 12.07.2006 but similar benefit was not extended to the writ petitioners in the category of ATOs and DTOs while rectifying the anomaly insofar as their pay fixations and payments of emoluments. In fact the General Manager, Securing Printing Press by his diary orders, dated 12.07.2006, pursuant to the orders received from the Government of India, Ministry of Finance, Department of Economic Affairs, (Currency and Coinage Division), New Delhi, vide their letter dated 29.06.2006 stated that the pay scales of the Industrial workmen of control and maintenance sections of Security Printing Press, Hyderabad, have been upgraded with effect from 01.01.1996 in order to remove the disturbance in the horizontal relativities in the pay scales as per para 66.50 of 5th pay commission caused by the grant of enhanced pay scales already sanctioned to the Industrial Workmen of Printing Section of SPP, Hyderabad, under para 66.221 with effect from 1.1.1996. However such benefit with conditions mentioned therein is not granted to the writ petitioners herein. In the facts and circumstances of the case, while rectifying the anomaly, there is no justification in denying the monetary benefits from 01.01.1996, from which date the anomaly has resulted.

This is so more particularly in the absence of any special circumstances to deny such benefits from the said date. The writ petitioners who held admittedly higher posts than the post of feeder category of foreman (Printing) cannot be made to suffer the consequences of an anomaly which has been admittedly rectified by the recommendations of the 6th pay commission; and the monetary benefit cannot be denied from 01.01.1996 despite upgradation of the pay scale and revision of the pay band along with grade pay.

6. Before parting, it is necessary to refer to the decision, dated 17.10.2014, of the Supreme Court in State of UP v. Aravind Kumar Srivatsava (Civil Appeal No.9849 of 2014 arising out of SLP.(C)No.18639 of 2012) relied upon by the learned Assistant Solicitor General wherein the question that fell for consideration was – ‘whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal which had attained finality as it was affirmed till the Supreme Court? The issue involved in the cited case is in regard to cancellation of appointments by a Chief Medical Officer which were made by his predecessor; and it so happened that a few candidates who were affected by such cancellation orders approached the Tribunal challenging the legality, validity and propriety of the said orders on several grounds; and the Tribunal decided the case in their favour and the State’s Writ Petition before the High Court and the Special Leave Petition before the Supreme Court were dismissed; thereafter the respondents in the cited case having waited all the while, that is, till the disposal of the Special Leave Petition in the year 1994 by the Supreme Court filed writ petition for giving appointments to them as well on the

strength of the judgment of the Tribunal given in the case of other persons claiming parity; the Tribunal and High Court extended the benefit of the earlier judgment to such respondents; since the selection process took place in the year 1986 and as twenty seven years have passed after the issuance of cancellation orders and as there was unexplained delay and laches in filing the claim petition after a period of nine years, and as most of the respondents who claimed parity would be almost 50 years of age or above, the Supreme Court allowed the appeal of the State and had set aside the orders of the Tribunal and High Court. Reverting to the case on hand, it is to be recalled that though the anomaly with regard to pay scale of foreman (printing) on one hand and the pay scales of the higher posts of ATO and DTO has resulted on account of the Central Administrative Tribunal's order directing up-gradation of scale of pay of foreman (printing), that anomaly was admittedly found and recognized and the issue was referred to anomaly committee as anomaly has to be rectified indubitably; but, the appropriate authorities opined that the anomaly cell of the 5th pay commission may be wound up and the subject matter may be represented to the 6th pay commission; thereafter the 6th pay commission having noted the said anomaly made necessary recommendations in its report. Further in the instant case there is no delay on the part of the petitioners herein in seeking the relief to which they are entitled to and that on the other hand they are diligent throughout. In view of the said facts of the present case, the reasoned discussion supra and the very facts of the cited case, which are peculiar to that case, this Court is of the considered view that the ratio in the above cited decision is not helpful to the respondents and does not advance their defence any further.

7. On the above analysis, this Court finds that the writ petitioners are entitled to the relief claimed and the contentions that the proceedings dated 29.06.2006 and orders dated 12.07.2006 relied upon by the petitioners pertain to a different case of removal of disturbance in the horizontal relativities cannot be countenanced as it is settled legal position that the post of feeder category, viz., post of foreman (printing) cannot be a post of higher scale vis-à-vis its promotion post of ATO, and in turn ATO's promotion post, DTO, at any point of time. Hence, while rectifying the anomaly, the benefit of pay and emoluments shall be allowed to the petitioners from 01.01.1996 by refixing their pay and granting enhanced pay scales after duly taking into consideration the recommendations of the 6th pay commission as well.

8. The writ petition is allowed accordingly.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

There shall be no order as to costs.

M. SEETHARAMA MURTI, J

27.01.2017
Vjl