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

+ **W.P. (C)3848/2001**

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Date of Judgment: 7st February, 2017

D.G.I.C.M.R. & ORS.

..... Petitioner

Through: Mr. Vaibhav Kalra, Advocate.

Versus

RENU BAHADUR

..... Respondent

Through: Mr. M.C. Dhingra with Ms. Gauri
Neo Rampal, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

G.S.SISTANI, J. (ORAL)

1. Aggrieved by the order passed by the Central Administrative Tribunal dated 18.12.2000, has led to the filing of the present writ petition.
2. The respondent had approached the Central Administrative Tribunal (hereinafter referred to as 'Tribunal') seeking a direction to quash the order dated 11.04.1997. A direction was also sought to the respondent (petitioner herein) to consider the case for revision of their pay scale from Rs.1400-2300 to Rs.1640-2900 w.e.f. 01.01.1986 and revised the pay scale accordingly. Arrears etc. were also claimed.

3. The respondent was appointed in the year 1987 as a Statistical Assistant in the Indian Council of Medical Research (ICMR) in the pay scale of Rs.425-700. The minimum essential qualification for the post of Statistical Assistant is a Postgraduate in Mathematics or Statistics. The respondent possesses the postgraduate qualification of mathematical statistics. The replacing scale after the Fourth Central Pay Commission's recommendation has been accepted by the Government for the post of Statistical Assistants as Rs.1400-2300. The grievance of the respondent before the Tribunal was that for the incumbents with Masters Degree, on similar jobs, the pay scale that has been recommended by the Fourth Central Pay Commission was Rs.1640-2900. Hence, the Statistical Assistants, whose essential qualification for the post, being Masters Degree, are also entitled for the higher scale of Rs.1540-2900 w.e.f. 01.01.1987. Since the respondent was appointed on 23.01.1987, she claims the benefit w.e.f. the said date.
4. In the impugned order, the Tribunal noticed that an identical question has been considered by the Madras Bench of the Tribunal in **“R. Jaysri & Ors. Vs. Union of India”** in *T.A. No. 12 to 21 of 1999*, which was allowed by the Tribunal and the following directions were issued: -
- i) The impugned order dated 11.4.1997 is quashed.
 - ii) The respondents are directed to consider the case of the applicants for revision of their pay scale from Rs.1400-2300 to Rs.1640-2900, with effect from 1.1.1986 and revise the pay scale accordingly. While such revision will have notional effect from 1.1.1986, the applicants will be

entitled to arrears of pay and allowances upon such refixation of pay only with effect from 1.7.1997, i.e. the date of filing of the writ petitions.

- iii) This order shall be complied with within three months of receipt of a copy of this order by the respondents.”

5. The O.A. filed by the respondent being O.A. No. 2146/1999 was disposed of by issuing the following directions: -

“11. The OA therefore is disposed of with a direction to the respondents to consider her case for revision of pay scales from Rs.1400-2300 to Rs.1640-2900. Such revision will have notional effect from the date of her appointment till 1.1.1996 and from 1.1.1996 the replacement scale would be given as per the Fifth Pay Commission’s recommendations. However, she will be entitled for arrears only from the date of filing of the OA., i.e., 30.09.1999 till the date of actual payment.”

6. Mr. Kalra, learned counsel for the petitioner submits that a complete reading of the order of the Tribunal would show that while passing the impugned order had completely relied upon the directions issued by the Madras Bench of Tribunal in R. Jayshree & Ors. (Supra). The decision in the aforesaid matter was taken up in a writ petition before the Madras High Court. The Madras High Court by its order and judgment dated 23.08.2002 issued the following directions: -

“5. At present, we are not inclined to go into the merits of the case, in as much as the learned additional solicitor general seeks time to pass fresh order after looking into the claims of the respondents – employees fresh. In the light of this assurance, we direct petitioners 1 and 2 namely, the Union of India, to submit a fresh considered final report in the above matter.

6. The writ petitions are adjourned to 4.10.2002 awaiting their report. The time for compliance of the directions given in the interim order is extended till 4.10.2002.”

7. Mr. Kalra submits that pursuant to the directions issued by the Madras High Court the case of the parties in the aforesaid writ petition and all similarly situated persons were considered by the petitioner herein and an order dated 03.10.2002 was passed. It is contended by Mr. Kalra that the directions passed by the Madras High Court were on a better footing for the petitioner and similar situated persons as the Tribunal by the order dated 18.12.2000 had directed the petitioner herein to consider the case of the respondent notionally from the date of her appointment till 01.01.1996 and actual benefits from 30.09.1999. However, the Madras High Court had directed the petitioner to consider her case notionally from 01.01.1986 and actual benefits from 01.07.1997. Thus, in effect the order passed by the Tribunal at Delhi dated 18.12.2000 stands complied and no further orders are required to be passed.
8. Mr. Dhingra, appearing for the respondent, submits that the petitioner have failed to comply with the order passed by the Central Administrative Tribunal dated 18.12.2002 in letter and spirit. Material documents have been ignored and not taken into consideration. He further contends that subsequent order passed by the petitioner herein dated 03.10.2002 is bad in law. Mr. Dhingra further contends that the order was challenged by the federation of which the respondent is also a member before the Tribunal. The Tribunal dismissed the OA, which led to the filing of the two writ petitions, which are also listed today and he submits that he would raise all grounds available to him in

accordance with law while addressing arguments in the aforesaid writ petitions.

9. In the above backdrop, in our view there is force in the submission made by Mr. Kalra that in view of order dated 03.10.2002 passed by the petitioner pursuant to directions passed by the Madras High Court no further orders are required to be passed in this writ petition. Additionally, it may be noted that the Tribunal by order dated 18.12.2000 had only directed the petitioner herein to consider the case of the respondent, which admittedly has been considered. The question whether the petitioner has rightly considered the case of the petitioner or not is not the subject matter of this writ petition. Moreover, the Central Administrative Tribunal while passing the order dated 18.12.2000 had relied upon the order passed by the Madras Bench of the Tribunal. The said order was taken up in a writ petition, wherein directions were issued and the directions so passed stand complied with by the petitioner.
10. Accordingly the present writ petition is disposed of, reserving rights of the respondent to raise all ground available to her in the writ petition filed by the federation.

G. S. SISTANI, J.

VINOD GOEL, J.

FEBRUARY 07, 2017

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