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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No.7373/2002

8th March, 2017

LEELA GAUR

..... Petitioner

Through: Mr. Mahesh Kasana and Ms. Aparna
Rohtagi Jain, Advs.

versus

PRESIDENT GENERAL COUNCIL IPH AND ORS. Respondents

Through: Mr. Rajiv Bansal and Ms. Arpita,
Advs. for R-1 to 4.

Mr. Naveen Jakkhar, Adv. for Mr.
Satyakam, ASC, GNCTD for R-5.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. In this writ petition under Article 226 of the Constitution of India, though several prayers were made, all the prayers have become infructuous on account of the petitioner having already retired during the pendency of this writ petition, and the only relief now prayed on behalf of the petitioner, is the prayer no. (iii) for grant of benefits of senior scale to the petitioner w.e.f. 1.1.1996 of Rs.5,500-9000.

2. It is undisputed that petitioner is entitled to the senior scale. The issue however is what is the first pay-band of the senior scale. The first

pay-band of the senior scale as per the petitioner is Rs.5500-9000, and for which purpose petitioner places reliance upon the circular of the Government of India, Ministry of Human Resources Development, Department of Secondary and Higher Education dated 4.4.2002.

3. No doubt, the circular dated 4.4.2002 mentions the senior scale having been upgraded from Rs.5000-8000 to Rs.5500-9000, however, it is seen that the Government of India itself had subsequently issued a circular dated 18.12.2002 which has fixed the initial pay-band of a primary teacher senior scale at Rs. 5000-8000 i.e not Rs.5500-9000 as stated in the earlier circular of the Government of India dated 4.4.2002. Since the circular of the Government of India dated 18.12.2002 is a subsequent circular clarifying the position, the same will supersede the earlier circular dated 4.4.2002. Therefore, the earlier circular dated 4.4.2002 fixed the initial pay-band of a primary school teacher senior scale at Rs.5500-9000 but that has been specifically set to Rs.5000-8000 in terms of the circular dated 18.12.2002 and which will therefore apply. For the sake of convenience the circulars of the Government of India dated 4.4.2002 and 18.12.2002 are reproduced as under:-

Circular dated 4.4.2002

“ No.F.5-21/97-UT 1
Government of India
Ministry of Human Resource Development

Department of Secondary & Higher Education

A-2/W-4, Curzon Road Barracks,
New Delhi, Dated 04/04/02

To

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|---|---|
| 1. Secretary (Education
Andaman & Nicobar Admn.
Port Blair | 4. Director of Education
Director of Education
Govt. of NCT of Delhi
Delhi |
| 2. Secretary (Education)
Dadra & Nagar Haveli,
Admn.
Silvassa. | 5. Secretary Education
Lakshadweep Admn.
Kavarati |
| 3. Secretary (Education)
Daman and Diu Admn.
Moti Daman | 6. Secretary (Education)
Govt. of Pondicherry
Pondicherry |

Subject: Revision of pay scales (senior and selection scales) for Primary School Teachers in the employment of Govt. of India, in the Union Territories and other autonomous bodies sponsored by the Government of India.

Sir,

In continuation to this Ministry's letter No.5-14/97-UT.1 dated 7.8.1998 regarding revision of pay scales of teachers, I am directed to state that the matter regarding anomaly in the pay scales (senior and selection) of Primary School Teachers was under consideration of the Govt. It has now been decided to revise senior and selection scales of Primary Schools Teachers w.e.f.1.1.96 as under:

	Existing	Revised
Entry Scale	4500-7000	4500-7000(No change)
Senior Scale	5000-8000	5500-9000
Selection Scale	5500-9000	6500-10500

2. This issues with the concurrence of Integrated Finance Division of this Ministry vide their Dy. No.3053/2002-IFD dated 4.4.2002.

Yours faithfully,
Sd/-

(ANIL KAPOOR)

Deputy Secretary to the Govt. of India"

Circular dated 18.12.2002

"F.No.22-20/99-NI-I
Government of India
Ministry of Social Justice & Empowerment
Desk NI-I

**Room No.622, 'A' Wing, Shastri Bhavan,
New Delhi, dated the 18th December, 2002**

To,
Dr. Dharmender Kumar,
Director,
Institute for the Physically Handicapped,
4, Vishnu Digambar Marg,
New Delhi-110002

Subject: Adoption of the recommendations of the Anomalies Committee regarding the scales of Staff of the National Institutes.

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Sir,

The recommendations of the Anomalies Committee regarding the scales of National Institutes have been under consideration of the Ministry of Social Justice & Empowerment for some time. In consultation with Internal Finance Division of the Ministry and Department of Expenditure, Ministry of Finance, it has now been decided to revise the pay scales of the following categories of posts as given under:

S. No	Name of the Post	Existing Pay Scale (Rs.)	Revised pay scale (Rs.)
1.	Machine Man Grade I	4000-6000	4500-7000
2.	Physiotherapist/Occupational Therapist	4500-7000	5500-9000
3.	Head Mistress	5500-9000	6500-10500
4.	Primary School Teacher (Senior Scale)	4500-7000	5000-8000
5.	Primary School Teacher	4000-6000	4500-7000

2. This sanction has the concurrence of Ministry of Finance, Department of Expenditure vide their U.O.No. 6(14)/E.III-(B)/2000 dated 2.1.2002.
3. This issues with the approval of competent authority.
4. This order comes into force with effect from the date of issue

Yours faithfully

Sd/-

(D.K.Bhat)

Under Secretary to the Govt. of India."

4. I may note that the respondent/institute/employer has observed in its additional affidavit dated 15.4.2005 that besides the petitioner there were other primary teachers in the school, and that to no primary teacher or any other employee of the respondent/institute, the pay band/pay-scale was

fixed of senior scale of Rs.5500-9000 and that for every primary school teacher of senior scale, the initial pay band was fixed at Rs.5000-8000 w.e.f 1.1.1996. Once therefore the respondent/institute has not granted a senior scale of Rs. 5500-9000 to any other primary teachers, and which is because of the circular dated 18.12.2002, petitioner also cannot get the scale of Rs. 5500-9000.

5. In view of the above discussion, it is seen that the circular dated 18.12.2002 prevails, and which supersedes the earlier circular dated 4.4.2002, and thereby, initial pay band in senior scale of primary school teacher is Rs.5000-8000 and not Rs.5500 -9000 as is contended on behalf of the petitioner.

6. In view of the above, the petitioner cannot be granted the initial pay band of Rs.5500-9000 in the senior scale inasmuch as initial pay band of a primary teacher in the senior scale is Rs.5000-8000 in terms of the circular dated 18.12.2002 of the Government of India.

7. Dismissed.

MARCH 08, 2017/ib

VALMIKI J. MEHTA, J