

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

Date of decision: 31st October, 2017

+ W.P.(C) 5591/2013

BIJENDER SINGH PANWAR Petitioner

Through: Dr. Vijendra Mahndiyani &
Ms. Pallavi Awasthi, Advocates

Versus

DIRECTOR OF EDUCATION & ANR. Respondents

Through: Mr. Naushad Ahmed Khan, Addl.
Standing Counsel & Mr. Manzar Anis,
Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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1. Petitioner is a retired Trained Graduate Teacher (*hereinafter referred to as 'TGT'*), who had retired from *Shaeed Udham Singh Samarak (Co-Ed) Secondary School (Recognized & Aided), Shastri Nagar, Delhi* on 30th June, 2013 and is aggrieved by withholding of *Selection Grade* benefits granted to him since the year 1985. The challenge in this writ petition is to the noting in impugned letter of 22nd July, 2013 (*Annexure P-8 colly*). Infact, vide impugned noting, first respondent had sought information regarding details of recovery, if any, and vide subsequent letter of 13th August, 2013, petitioner was intimated about recovery of *Selection Grade* benefits. The grievance of petitioner is that despite issuance of "*No Dues Certificate*", the benefits accrued by

grant of *Selection Grade* has been illegally withheld by first respondent despite judgment in civil suit i.e. S-1661/06/94, *Smt. Kamlesh Mittal Vs. Govt. of NCT of Delhi & ors.*, decided on 5th September, 2011 (*Annexure P-5*), wherein it has been categorically held that the benefit of *Selection Grade* granted to petitioner herein should not be disturbed. It was categorically clarified in the said decision that petitioner should not be deprived of any of the benefits.

2. Learned counsel for petitioner submits that the aforesaid Civil Court judgment of 5th September, 2011 (*Annexure P-5*) was challenged by first respondent by way of an appeal, which stands dismissed vide order of 19th October, 2013 (*Annexure P-17*). It is further submitted by petitioner's counsel that judgment of 5th September, 2011 (*Annexure P-5*) of Civil Court, upheld by Appellate Court vide order of 19th October, 2013 (*Annexure P-17*), precludes first respondent from withholding the benefit of *Selection Grade* to petitioner.

3. On the other hand, learned counsel for first respondent submits that petitioner had interpolated marks given to him under the marking scheme (in selection of 'TGT') from 10 marks to 16 marks and so, his total was higher than that of Smt. Kamlesh Mittal. So far as decision of Civil Court (*Annexure P-5*), which has been upheld by Appellate Court vide order Annexure P-17, is concerned, the stand of counsel for first respondent is that there was no cross-examination of the witnesses before the Civil Court by respondents herein and so, interpolation aspect could not be brought to light.

4. Upon hearing and on perusal of impugned letter (*Annexure P-8 colly*), judgment of Civil Court (*Annexure P-5*) as well as of Appellate

Court (*Annexure P-17*), I find that in the face of judgment of Civil Court, respondents are precluded from withholding the benefit of grant of *Selection Grade* granted to petitioner way back in the year 1985. Such a view is being taken because the orders of Civil Court as well as Appellate Court, have attained finality and also for the reason that there is no justification for respondent to ignore the Civil Court decision by merely contending that there was no cross-examination of witnesses.

5. In view of aforesaid, this petition is allowed with direction to first respondent to release the benefit of *Selection Grade* to petitioner within six weeks. However, in view of peculiarity of instant case, this Court is not inclined to grant interest on the arrears of Selection Grade amount payable to petitioner but if it is not released to petitioner within six weeks, then it shall carry interest @ 6% per annum till realisation.

6. With aforesaid directions, this petition is disposed of.

SUNIL GAUR
(JUDGE)

OCTOBER 31, 2017

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