

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8854 of 2002

ORDER:

This writ petition is filed seeking to issue a writ of mandamus, declaring the action of the respondents in rejecting the petitioner's representation, dated 06.02.2001, vide letter, dated 28.05.2001, as arbitrary, illegal and sought a consequential direction to the respondents to re-fix the pay scale of the petitioner giving the benefits as per clause-23(vii) of the Memorandum of Settlement, dated 05.12.1986 for the period from 01.01.1987 to 28.02.1990, and further direct the respondents to pay monetary benefits and arrears of difference in salary for the said period with interest @ 18% p.a for the delayed payment.

Heard Sri T.Bala Jayasri, learned counsel, appearing for the petitioner, and Sri O.Manohar Reddy, learned counsel, appearing for the respondents.

It has been contended by the petitioner that he was appointed as a Clerk in the respondent organization on 06.08.1958. There afterwards, he was promoted as Senior Clerk and later as Accountant, and finally promoted as Assistant Secretary. The grievance of the petitioner is that he was promoted as Accountant prior to 01.01.1986 and hence he is entitled to the benefits of Memorandum of Settlement under Section 18(1) of the Industrial Disputes Act, 1947, dated 05.12.1986. As per Clause-25 of the Memorandum of Settlement, the said settlement would come into force with effect from 01.01.1986. The grievance of the petitioner is that the settlement conditions should be extended to him and his pay should be protected. The petitioner is comparing himself with one K.Venkatarami

Reddy, who is working in the lower cadre of clerk and contends that the lower cadre employee is drawing more salary than the petitioner and therefore, the said anomaly should be rectified and the petitioner should be paid the difference. The petitioner had earlier filed W.P.No.5488 of 1993, which was allowed, vide orders, dated 21.10.1997, directing the respondents to consider his representation and pass appropriate orders. The respondents have considered the representation of the petitioner and passed orders on 28.05.2001, rejecting his case. Challenging the same, the present writ petition is filed.

The counsel, appearing for the respondents, had contended that the petitioner is comparing with a Clerk, who is a different cadre employee and the said clerk has put in 26 years of service and on that count, he is drawing more pay than that of the petitioner. The petitioner cannot compare himself with a different cadre employee and contend that he should be paid the same benefits and salary.

This court, having considered the rival submissions made by the parties, is of the considered view that the petitioner has relied on the settlement, which is dated 05.12.1986. As per clause-25, the said settlement would come into force with effect from 01.01.1986, and the petitioner has earned all his promotions prior to 01.01.1986. Hence, the question of extending the benefits under the said settlement in favour of the petitioner would not arise and the petitioner also cannot compare himself with a different category employee of the respondent organization and contend that he should be paid on par with other category employees. If any of the same category employees of the petitioner are drawing more salaries and they happen to be juniors to the petitioner,

then the petitioner might have any case. In the instant case, the petitioner is comparing himself with a different category employee, and he cannot compare his pay with a different category employee. More over, the settlement, which has come into effect from 01.01.1986, cannot also be extended to the petitioner.

There are no merits in the present writ petition, and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 27.07.2018
Dsr



ABHINAND KUMAR SHAVILI, J