

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

Date of Order: March 19, 2018

+ **W.P.(C) 2540/2018**

JAGDISH KUMAR KOLI Petitioner

Through: Mr. Jai Bansal, Advocate

versus

NATIONAL BAL BHAVAN & ANR Respondents

Through: Mr. Roshan Lal Goel and Ms. Anju Gupta, Advocates for respondent No.2-UOI

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioner claims to be working as Manager (Publication) with respondent-*National Bal Bhawan* since the year 2004 and it is the case of petitioner that in view of the proceedings of 24th October, 2011 of National Commission for Scheduled Castes (*Annexure P-3*), One Man Committee was set up by second respondent and this Committee vide its Report of 5th May, 2014 (*Annexure P-8*) had concluded that petitioner is not being harassed on account of his minority status. Petitioner further claims that in March, 2012, he had sought revision of his Grade Pay from ₹4200/- to ₹5400/- and in July, 2012, respondent-*National Bal Bhawan* in its Communication of 2nd July, 2012 (*Annexure P-10*) had recommended to second respondent to upgrade petitioner's Grade Pay to ₹5400/-.

2. Learned counsel for petitioner submits that as per proposal of Ministry of Human Resource Development (*Annexure P-11 colly.*) made

on 6th February, 2013, the post of Manager (Publication), National Bal Bhawan and Assistant Director (Publication), ICHR is equal, but the pay scale is less. Hence, the matter was referred to Ministry of Finance. Attention of this Court is drawn to Office Noting of 19th September, 2012 (*Annexure P-12*) of Ministry of Finance, which indicates that the proposal to upgrade petitioner's Grade Pay from ₹4200/- to ₹5400/- in PB-III was not agreed to. In the Office Noting of 22nd March, 2013 (*Annexure P-12*), Ministry of Finance has noted that post of Manager (Publication) is a Group 'C' isolated post whereas, the post of Assistant Director (Publication) in ICHR is a Group 'A' post and so, the comparison between the two posts cannot be drawn as parity cannot be sought on the basis of educational qualifications alone.

3. It is evident from Ministry of Human Resource Development's Communication of 17th February, 2014 (*Annexure P-15*) that petitioner had submitted a Representation on 31st December, 2013, which was examined by Ministry of Human Resource Development and National Commission for Scheduled Castes was intimated vide Communication (*Annexure P-15*) that revision of pay-scale has not been accepted by Ministry of Finance and as per Rules of Business, the concurrence of Ministry of Finance is mandatory for such proposals. It was also intimated that as per Rules, petitioner would be eligible for MACP benefits on completion of qualifying service and that no case of discrimination or harassment of petitioner is made out.

4. As per Communication of 13th May, 2015 (*Annexure P-16*), *National Commission for Scheduled Castes* had recommended to

Ministry of Human Resource Development to examine case of petitioner for upgradation of scale/grade pay at par with other organizations of Ministry of Human Resource Development. According to petitioner's counsel, there was no response to aforesaid Communication (*Annexure P-16*) by Ministry of Human Resource Development and petitioner had represented to the Ministry of Finance on 26th May, 2016 vide Representation (*Annexure P-20*) to reconsider the matter. Petitioner's counsel claims that there was no response to his Representation of 26th May, 2016 (*Annexure P-20*) made to the Secretary, Ministry of Finance.

5. Upon hearing and on perusal of the material on record, I find that petitioner vide Representation of 26th May, 2016 (*Annexure P-20*) had sought reconsideration of revision of his pay scale while referring to Rule 14 of the Bye-Laws of National Bal Bhawan. Although there is no response to petitioner's Representation (*Annexure P-20*), still the plea on which petitioner has sought revision of his pay scale has to be principally addressed by National Bal Bhawan as it is the case of petitioner that as per the aforesaid Rule, there is no need of any concurrence from Ministry of Finance. Attention of this Court has not been drawn to any Communication made by petitioner to National Bal Bhawan to indicate that such a plea was earlier raised.

6. Since the aforesaid plea goes to the root of the matter, therefore, it is deemed appropriate to dispose of this petition with liberty to petitioner to make a concise Representation to National Bal Bhawan within a period of two weeks to seek reconsideration of his case for revision of upgradation of pay-scale in light of Rule 14 of the *Bye-Laws of National*

Bal Bhawan or to make out a case for promotional avenues and in the alternative to seek the benefit under the *Modified Assured Career Progression (MACP)* Scheme. Upon receipt of such a Representation, respondent-*National Bal Bhawan* shall pass a speaking order within a period of six weeks on the Representation so made and the fate of Representation be conveyed to petitioner within two weeks thereafter, so that petitioner may avail of the remedies as available in law, if need be.

7. Since none has appeared on behalf of respondent-*National Bal Bhawan*, therefore, respondent-*National Bal Bhawan* be apprised of this order forthwith, to ensure its compliance.

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

Copy of this order be given *dasti* to learned counsel for petitioner.

MARCH 19, 2018

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**(SUNIL GAUR)
JUDGE**