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

Date of Order: May 04, 2018

+ WP(C) 4735/2018 & CM No. 18213/2018

SHALINI SHARMA Petitioner

Through: Mr. Abhishek Nanda, Advocate

versus

UNIVERSITY OF DELHI AND ORS. Respondents

Through: Mr. Mohinder J S Rupal, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Petitioner's representation seeking pay protection was made to respondent-College on 10th July, 2017 and vide communication of 21st/24th November, 2017, (Annexure-O), respondent-College has forwarded petitioner's request for grant of pay protection to the respondent University and the said request has been declined by the respondent University by order of 15th January, 2018 (Annexure-P) while reiterating its earlier decision of 9th June, 2017 (Annexure-M) wherein it has been simply observed that petitioner's request for pay protection of the period from September, 1998 to August, 2010 cannot be considered as she had worked on the post of assistant professor in department of computer science on temporary basis.

Learned counsel for petitioner submits that similarly placed persons i.e. *Dr. Monika and Veenu* have been already granted pay

protection and at the time of selection of petitioner, it was made clear that petitioner will be given the pay protection. To submit so, attention of this Court is drawn to the Minutes of the meeting of the Selection Committee on 22nd December, 2008 (Annexure-F) .

Consequent upon passing order of 15th January, 2018, respondent-School has initiated the process to recover the extra/excess amount paid to petitioner on account of pay protection already granted and as per communication of 13th April, 2018 (Annexure-S), respondent-School has sought to recover the excess payment made to petitioner on account of the pay protection, in 36 equal instalments and the entire amount of arrears of VIIth pay commission implementation is also sought to be adjusted against the outstanding amount. So, stay of the impugned recovery is sought by petitioner's counsel on the ground that the impugned order is not a speaking order and since petitioners had been already granted pay protection at the time of her selection, therefore, the impugned recovery is wholly un-justified.

Upon hearing and on perusal of impugned order and the material on record, I find that petitioner's Representation of 10th July, 2017 (Annexure-N) alongwith the recommendations of Respondent-College was forwarded vide communication of 21st/24th November, 2017 (Annexure-O) to the Respondent-University. The impugned order of 15th January, 2018 (Annexure-P) mechanically reiterates its earlier communication of 9th June, 2017 (Annexure M) to refuse pay protection to petitioner without adverting to the case of Dr. Monika and Ms. Veenu, who are said to be similarly placed and have been granted the pay protection. Not only the impugned order of 15th January, 2018 (Annexure-P), but even the earlier communication of 9th June, 2017 (Annexure-M) of respondent-University are non-speaking.

A reasoned order is required to be passed on petitioner's Representation (Annexure-N) in light of the Minutes of Meeting of the Selection Committee of 22nd December, 2008 (Annexure-F) as in the said Meeting, nominee of the respondent-University was also present and the Selection Committee way back in the year 2009 had made it clear that the selected candidates will be given pay protection.

In light of the aforesaid, impugned order of 15th January, 2018 and earlier communication of 9th June, 2017 (Annexure-M) relied upon by respondent-University are hereby quashed with direction to the competent authority of the respondent-University to re-consider petitioner's Representation (Annexure-N) and to pass a speaking order thereon in light of the recommendation (Annexure-O) of respondent-College and the note appended to the Selection Committee Meeting (Annexure-F).

Needful be done within a period of 8 weeks and the fate of the said Representation be conveyed to petitioner within two weeks by the respondent-University, so that petitioner may avail of the remedy as available in law, if need be. Till it is so done, the impugned order be not implemented.

With aforesaid direction, this petition and the application are accordingly disposed of.

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

(SUNIL GAUR)
JUDGE

MAY 04, 2018
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