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

+ W.P.(C) 8770/2018

SOBHAN SINGH & ORS

..... Petitioners

Through: Mr.R.K.Saini, Advocate.

versus

DELHI HIGH COURT

..... Respondent

Through: Mr. Viraj R.Datar, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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17.09.2018

The petition has absolutely no merit to the extent it questions the authority of Hon'ble the Chief Justice under Article 229 of the Constitution of India to frame new Rules *viz.* Delhi High Court Departmental Canteen Employees (Appointment and Conditions of Service) Rules, 2017 for the departmental canteen employees given that the other employees of the Establishment (Delhi High Court) were covered under the Delhi High Court Establishment (Appointment and Conditions of Service) Rules, 1972. Amendment has been carried out with respect to various categories on the ground that separate set of rules have been framed - like in the case of the Supreme Court where existing rule has been framed for cadre of

departmental canteen employees, is of no consequence. As long as, rules are framed and exist regulating entry and conduct of the employment as well as other terms and condition, the employer's choice of adopting route by either amending the existing rule (at par of other employees) or framing new set of rules cannot be questioned.

The main grievance of the petitioners was with respect to pay scales. It was complained that the pay scale prescribed for the class of the present petitioners i.e. departmental canteen employees were lower than what was prescribed for departmental canteen employees of the Supreme Court. Furthermore, higher scales were also sought. At the outset, learned counsel for Delhi High Court has relied upon Minutes of Meeting dated 27.05.2017 of the Committee which considered the issue and recommended to the Hon'ble Chief Justice as follows:

“A perusal of the pay-scales of different posts in Supreme Court Departmental Canteen, as noticed here-in-above, shows that they are identical to the pay-scales granted to employees of Delhi High Court Departmental Canteen under orders dated 13.10.2009 of Hon'ble the then Chief Justice on the basis of O.M. No. 3/6/07- Dir (C) dated 15.10.2008 of Ministry of Personnel, Public Grievances & Pensions (DoPT), Government of India. Thus, the pay-scales granted and being paid to employees of Delhi High Court Departmental Canteen are as prescribed by DoPT.

The Committee is informed that VII Central Pay Commission while considering the proposal in relation to pay structure of staff of the Supreme Court Departmental

Canteen for an upgradation of pay of one level higher than the existing level for such posts, made the following recommendations:-

“12.24 Canteen Staff have been classified in Chapter 55 of the V CPC report as those belonging to common categories. The VI CPC had, in Chapter 3.8, also specifically treated Canteen Staff as employees belonging to a common category. Further in Chapter 9.1 on ‘ Pay-scales, allowances and service conditions of employees and Court Officers of the Supreme Court’ the VI CPC has treated canteen staff in the departmental canteen of Supreme Court in the same pay-scales as existing for canteen staff in the departmental canteens of the Central Government.

12.25 This Commission, is also of the view that staff of the Supreme Court Departmental Canteen, who carry out a function of a nature that is akin to staff canteens of other Central Government departments are common category personnel and cannot be treated as a distinct category as is the case with other officers and employees of the Supreme Court, whose duties are unique.

12.26 The Commission therefore recommends that the pay structure of staff of the Supreme Court Departmental Canteen should continue to be at par with staff of the Departmental Canteens of the Central Government.”

Thus, whole considering the general demands to upgrade each post on the grounds that such posts hold higher responsibilities compared to other posts at similar levels, the Commission did not find valid justification for upgrade and recommended replacement of pay levels as per VII CPC Pay Matrix.

In view of above, it may not be advisable and proper to give higher pay-scales to the canteen cadre in Delhi High Court, which is higher in comparison with the same staff performing identical duties in the Supreme Court. Functions and duties of Non- Statutory departmental Canteens/Tiffin rooms in Central government Offices are not shown to be divergent or different from the duties and functions of the staff working in Delhi High Court. It may be pertinent to state that normally Delhi High Court maintains parity with the Supreme Court in the case of pay-scales. Thus, the question of pay-scales would be re-examined in case the pay-scales of canteen staff in the Supreme Court are upgraded and increased so as to maintain parity.

Subsequently, the Chief Justice of the Court approved the Minutes of Meeting and the matter was accordingly closed on 06.06.2017. In these circumstances, it is evident that there is parity of pay with respect to the class of departmental canteen employees covered by the 2017 Rules and those working on similar posts in the Supreme Court. Furthermore, as and when there is revision in the Supreme Court Establishment with respect to the departmental employees, it could be open to the petitioners or any other departmental canteen employees, to seek appropriate recourse subsequently. This court is of the opinion that no further relief can be

granted.

As far as the first prayer is concerned, the Court is of the opinion that in the light of above discussion, relief cannot be granted; moreover what the petitioners seek, is a direction to amend in a particular manner-which is an untenable proposition.

The writ petition is dismissed in view of above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

SEPTEMBER 17, 2018

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