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

% ***Date of Order: February 16, 2018***

+ **W.P.(C) 11828/2016**

KIRTI KHANDELWAL Petitioner

Through: Ms.Jyoti Singh, Sr.Advocate with
Mr.Himanshu Gautam, Advocate

versus

GOVT OF NCT OF DELHI AND ORS Respondents

Through: Mr.Ankur Chhibber, Advocate for R-4
Ms.Prabhsahay Kaur, Advocate for R-1 to
R-3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL)

1. Petitioner is a Statistical Assistant in the Respondent-Institute who had sought parity with Statistical Assistants of Planning and Statistical Cadre in the Government of NCT of Delhi vide Representation of 27th August, 2008 (*Annexure P-5 Colly*). The said Representation was addressed to the Respondent-Institute and it stands declined vide impugned order of 21st April, 2015 (*Annexure P-1*) while noting that petitioner's case for upgradation of pay scale was put up before the Finance Department of Government of NCT of Delhi for approval and it has been turned down with the following remarks :

"It appears that pay scales of the post of Statistical Assistant of NSIT are not comparable with the post of Statistical Assistant of Planning & Statistical, GNCTD. In view of this NSIT may be advised to extend the normal replacement pay scale corresponding to the pre-revised pay scale of the post as incorporated in Section I & II of part A of the First Schedule

to the CCS (revised pay) Rules to the Statistical Asstt. Of NSIT.”

2. Learned senior counsel for petitioner draws attention of this Court to petitioner's appointment letter (*Annexure P-2*) wherein it is clearly provided that the Respondent-Institute shall follow Government of India/Government of Delhi Rules in respect of the pay and allowances.

3. It is matter of record that at the time of petitioner's appointment, the pay scale offered to her was at par with the pay scale being given to Statistical Assistants in Government of NCT of Delhi. In the counter affidavit filed by Respondent-Institute, it is asserted that there was a restructuring of pay scales of Statistical Assistants in Government of NCT of Delhi and so, the case of petitioner cannot be treated at par with that of Statistical Assistants in Government of NCT of Delhi.

4. To controvert the aforesaid stand, learned senior counsel for petitioner draws attention of this Court to the Office Noting of 5th December, 2014 (*Annexure P-16 Colly*) of the Finance Department of Government of NCT of Delhi, to point out that the Finance Department has declared that it has no role to play in matters of grant of pay scale concerning the Respondent-Institute. Not only this, Government of NCT of Delhi vide its Communication of 11th August, 2016 (*Annexure P-16 Colly*) has clarified that the pay scales as approved by Government of Delhi shall be applicable to faculty staff of Respondent-Institute and the approval of the Government is necessary only for creation of a post in the Respondent-Institute.

5. Learned counsel for Respondent-Institute submits that initially petitioner's case was recommended for upgradation of pay-scale but due to

the objection of the Finance Department as contained in the Office Noting of 11th March, 2015 (*Annexure P-10 Colly*), it has been turned down.

6. Upon hearing and on perusal of impugned order and the material on record, I find that the impugned order is solely premised on the Office Noting of 11th March, 2015 (*Annexure P-10 Colly*) of the Finance Department. In fact, petitioner's Representation is required to be re-considered by respondent No.3 in light of the Office Noting (*Annexure P-16 Colly*) of the Finance Department of Government of NCT of Delhi and their Communication of 11th August, 2016.

7. At this stage, learned senior counsel for petitioner on instructions submits that a concise Representation would be made to respondent No.3 to seek parity in the matter of pay scales with the Statistical Assistants in the Government of NCT of Delhi and this Representation would be made within a period of one week. If such a representation is received by respondent No.3, then it be considered in light of its Office Noting (*Annexure P-16 Colly*) and Communication of 11th August, 2016 and a speaking order be passed on petitioner's Representation by the Competent Authority within a period of six weeks and the fate of the representation be made known to petitioner within a week thereafter so that petitioner may avail of the remedy as available in law, if need be.

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

Dasti.

**(SUNIL GAUR)
JUDGE**

FEBRUARY 16, 2018/mamta