

\$~R-8 (Sr.Citizens)

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

+ W.P.(C) 11020/2015

A.K.RAINA

..... Petitioner

Through: Mr.Padma Kumar S., Advocate

versus

UNION OF INDIA

..... Respondent

Through: Mr.Ruchir Mishra &
Mr.Mukesh Kr.Tiwari,
Advocates for UOI

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

05.04.2018

1. The petitioner is aggrieved by the non-adjudication of the pleas taken by him in O.A. No.2682/2012, that has been decided by the Tribunal vide common judgment dated 25.08.2015 in O.A. Nos.382/2006 & 2682/2012.

2. Learned counsel for the petitioner clarifies that the petitioner was a co-applicant before the Tribunal in O.A. No.382/2006 and the sole applicant in O.A. No.2682/2012. He states that in O.A. No.2682/2012, the prayer made was for quashing and setting aside the order dated 18.03.2011, passed by the respondent, reducing the pay scale of the petitioner and others, working on the post of

Accounts Officer in R&AW (Accounts Cadre) and for revision of his pay scale and grade pay in the grade of Accountant in the R&AW (Accounts Cadre), in accordance with the recommendations of the 6th Central Pay Commission and for refund of amounts arbitrarily deducted by the respondent towards recovery of the excess payment and allowances disbursed to him, along with interest etc.

3. Learned counsel for the petitioner submits that in the other O.A. No.382/2006, the prayer made was for issuing directions to the respondents to grant the applicants the benefit of up-gradation of pay scale of ₹6500-200-10500, on a notional basis w.e.f. 01.01.1996, with actual payments being made from 19.02.2003. The aforesaid O.A. was dismissed by the Tribunal vide order dated 14.02.2006, on the ground that the applicants had failed to prove the historical parity claimed by them vis-a-vis other organized cadres and the allocation of pay scale is a matter for the expert body to decide before making any recommendations.

4. Aggrieved by the said findings, the applicants in O.A. No.382/2006 had approached the High Court by filing W.P.(C) No.17546-65/2006 which was allowed vide order dated 24.05.2012, by remanding the matter back to the Tribunal for returning a finding with regard to the aspect of pay parity raised by them. At the same time, the High Court had observed that the Accounts Cadre in the R&A Wing of the Cabinet Secretariat is an organised cadre.

5. In view of the aforesaid directions, issued by the High Court, the Tribunal considered the matter afresh and passed a common judgment dated 25.08.2015 for the reason that in that duration, the

petitioner had filed another O.A. before the Tribunal (O.A. No.2682/2012) for revision of his pay scale, grade pay etc., that was pending adjudication.

6. The limited submission made by the learned counsel for the petitioner before us is that the Tribunal has not considered the two-fold grievance raised by the petitioner before the Tribunal in the subsequent OA filed by him, firstly a challenge was laid to the order dated 18.03.2011 passed by the respondent whereby they had introduced two different pay-scales i.e. a higher grade pay for the Accounts Officers & Accountants possessing SAS qualification and a lesser grade pay for the non-SAS qualified Accounts Officers & Accountants in the cadre and secondly, the petitioner contended that the respondent could not direct recovery of the purported over payments made to him for the period between 06.04.2009 to 30.06.2012, without first issuing him a notice to show cause particularly when the alleged mistake in the wrong fixation of his pay and emoluments were not on the basis of any misrepresentations made by him.

7. We have carefully perused the impugned judgment. In so far as the said judgment relates to the findings returned in respect of the issue raised by the petitioner in OA No.2682/2012 is concerned, we note that the Tribunal appears to have overlooked both the pleas taken by the petitioner in the said OA as referred to above. No finding has been returned on either of the issues. The focus of the said judgment is on the issues raised in OA No.382/2006. In fact, the said issue as crystallized by the Tribunal in para No.2 of the impugned judgment

has alone been decided. The issue framed was as follows:-

“Whether the applicants are entitled to the benefit of upgraded pay-scale of Rs.6500-10500 on notional basis with effect from 01.01.1996 with actual payment being made from 19.02.2003.”

8. The judgment has discussed the pleas taken by both sides on the aspect of upgradation of the pay scale and thereafter declined to grant any relief to the applicants. While doing so, the pleas taken by the petitioner in O.A. No.2682/2012 have neither been discussed nor decided. In view of the aforesaid position, we deem it appropriate to remand O.A.No.2682/2012 back to the Tribunal for a fresh adjudication, limited to the two issues highlighted in para 6 above.

9. The parties shall appear before the Registrar, Central Administrative Tribunal on 24.04.2018, for a date to be fixed before the concerned Branch for final arguments.

10. The petition is disposed of in the above terms.

HIMA KOHLI, J.

PRATIBHA RANI, J.

APRIL 05, 2018

‘hkaur/pg’