

\$~14

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

+ W.P.(C) 1228/2017

SHREEPAL AND ORS

..... Petitioners

Through Counsel (Appearance not given).

versus

UNION OF INDIA AND ORS

..... Respondents

Through Ms. Pratishtha Vij and Mr. Abhinav
Mukerji, Advocates for R-3/IIT.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **18.02.2020**

By the instant petition, the petitioners, who are employed with Indian Institute of Technology, Delhi, in short 'IIT-D' and working on semi-skilled Group 'D' posts as Attendants in various departments, seek issuance of a Writ of Certiorari to quash the letters dated 19.04.2011 and 04.04.2016 (actually, an extract of the Minutes of the decisions taken in the meeting of the Board of Governors of IIT-D) and the consequential issuance of a Writ of Mandamus to the respondents for the grant of pay scale of Rs.3,200-85-4900 to the petitioners in consonance with the 5th CPC recommendations.

Concisely, the case of the petitioners is that they were entitled to be granted 5th CPC pay-scale of Rs.3,200-85-4900 and at par with the similar posts in other IITs. More so, for those of whom, who had crossed the basic pay of Rs.3,575/-. To achieve such objective, the petitioners are said to have made representations but it did not find favour with the Ministry of Human Resource Development (MHRD), Department of Higher Education. In

support of the reliefs prayed, the petitioners seek to draw strength from the decision of this Court in W.P.(C) 2764/2001 '*Manjit Singh and Ors. vs. Union of India and Anr.*' dated 13.09.2011. In addition thereto, the petitioners seek parity with the similarly placed employees of IIT, Bombay; IIT, Kharakpur and IIT, Roorkee, who, according to them have been granted the pay-scale as sought by the petitioners. Broadly, the case of the petitioners is that the petitioners, who were Attendants at IIT-D were continuing to be held against the category of Group 'D' posts rather than being classified as Group 'C' and thus their pay-scales being upgraded.

IIT-D on its part, adverting to the subject matter having been taken by it with MHRD for a uniform decision being taken for all the IITs across the country, has expressed its inability to accede to the demands of the petitioners in view of the same having been not acceded to by MHRD. IIT-D also adverts to the decision taken by its BoG in its 190th meeting held on 22.09.2015, when, the same issue agitated by the General Secy., IIT-D Employees' Union was examined and not agreed upon.

At the onset, ld. counsel for the petitioners sought advertence to the judgment of the ld. Single Judge passed in *Manjit Singh's* case (supra) to contend that the issue involved in the instant petition was fully covered thereby. In his submissions, the recommendations of 4th CPC were given effect to the similarly placed persons of all IITs including IIT-D. Though, it is so, it emerges, it happened on account of the fact that a decision to that effect came to be taken by the respective IITs at their own end. Whether 4th CPC recommendations *ipso facto* were applicable to the employees of IITs was however not an issue before the Court in the case in which the judgment *supra* came to be passed. The issue agitated thereunder was only with regard

to the date of its application, which, the Court allowed w.e.f. 01.01.1986 on par with TAs in IIT Kharakpur and elsewhere and with the directions contained therein, as under:

"(i) It is declared that the TAs of IIT Delhi could be entitled to revision in their pay-scales from Rs.1400-1600/- to Rs.1640-2900/- (pre-revised) with effect from 1st January 1986 on par with the TAs in IIT Kharagpur and elsewhere.

(ii) Within a period of two weeks Respondent No.2, IIT Delhi, will write to the Council of IITs as well as HRD Ministry enclosing a copy of this order and request them to issue necessary orders according sanction to the grant of the revised pay-scales to TAs in IIT Delhi with effect from 1st January, 1986 by way of implementation of this order;

(iii) Within a period of four weeks of the receipt of the above communication, the Council of IITs and thereafter the HRD Ministry will issue the necessary consequential orders granting the pay scale of Rs.1640-2900 (pre-revised) to the TAs in IIT Delhi with effect from 1st January 1986. The IIT Delhi will forthwith implement such order."

Two things very clearly emerge from the judgment *supra* and the directions given thereunder. One, it did not hold *ipso facto* application of 4th CPC recommendations to the employees of any IIT. Secondly, the subject of fitment or otherwise revision of the pay-scales of the employees of IITs was subject to approval of MHRD. Much reliance on the judgment *supra* in the instant petition is therefore of not much avail to the petitioners. As for the stand of MHRD, the ld. counsel for the IIT-D drew attention to the copy of the letter dated 22.05.2008, which forms part of the counter-affidavit as Annexure 'R-3' and relevant to the context, it reads, as follows:

"3. In this connection, I would request you to please indicate

if such an upgradation has been agreed to by your Board. You would recall that in the Standing Committee of IIT Council (SCIC) held recently, it was agreed that Institutes should not resort to revision in scales of pay at their level to avoid any distortion having implications in other institutions. The SCIC also noted that it was beyond the competence of any institute to make changes in pay structure which has, in the past, led to wide spread distortion in the pay structure of non-teaching employees of IITs.

4. The grant of higher pay scale of Rs.3200-4900 is irregular since it is not in conformity with the Govt. order on this subject. Further, such upgradation has far-reaching implications particularly at a time when 6th Pay Commission has submitted its report and its recommendations are under process for consideration of the competent authority. In the circumstances, I would request you to hold in abeyance of the decision taken by your Board in regard to grant of higher pay scale to Group 'D' employees and refer the matter to the Government for consideration."

That being the stance of MHRD, it also emerges that the application made by the General Secretary, IIT-D Employees' Union on the given subject of upgradation of the pay-scale, the BoG of IIT-D examined it in its meeting held on 04.04.2016 and the request made was not agreed to. The short communication made by IIT-D on the given subject reads as under:

"With reference to his application dated 24.09.2014 & 01.09.2015 regarding upgradation of pay scale from Rs.3050-4590/- to Rs.3200-4590/-. General Secy., IITD Employees Union is hereby informed that this issue has been examined by the Board of Governors in its meeting held on 04.04.2016 but the same has not been agreed to."

From the foregoing stance taken by MHRD and the decision taken by BoG of IIT-D, it is clear that the respondents are not persuaded to grant the

upgradation of the pay-scale, which the petitioners seek. IIT-D is an autonomous body under the administrative control of MHRD. Its employees cannot be said to be the civil servants as defined under the CCS (CCA) Rules and to whom the Pay Commission recommendations apply. The Court on its part would refrain to get into the aspects of financial implications, which pre-dominantly, are to be decided by an administrative decision taking into account various factors like requirement, resources etc.

For the foregoing reasons, no merit is seen in the instant petition and the same is dismissed.

A. K. CHAWLA, J

FEBRUARY 18, 2020

nn