

17 18.07.22

Ct. No. 04

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WP.CT. 17 of 2022

**The Union of India & Ors.
Vs.
Megnath Dolui & Ors.**

**Ms. Susmita Saha Dutta,
Ms. Sarda Sha.**

... for the petitioners.

**Ms. Soma Kar Ghosh,
Mr. Arabinda Pathak.**

... for the respondents.

The Union of India has filed the instant writ petition challenging the order dated 14th September, 2021 passed by the Central Administrative Tribunal in O.A. 1207 of 2019; whereby and whereunder the Tribunal directed to stepping up of pay of all the respondents at par with Gobinda Khan within a period of three months from the date of receipt of the said order.

The respondents made a representation before the authority seeking pay parity, as the scale of pay given to the respondents is much lower than the scale of pay given to one Gobinda Khan. It was urged that Gobinda Khan was shown senior in the Gradation List and has been given higher scale of pay being admittedly junior to the respondents and, therefore, in order to remove the disparity the respondents should be stepped up so far as it relates to the scale of pay at par with Gobinda Khan. Since the said representation was rejected by the authority, the respondents approached the Tribunal with substantive prayer for removal of disparity in the scale of pay and to bring the respondents at par with the said Gobinda Khan.

Before the Tribunal the writ petitioners herein relied upon the Office Memo dated 29th September, 1992 and also 14th September, 1995 to dispel the

contention of the respondents seeking removal of pay anomaly.

The Tribunal held that Office Memorandum dated 14th September, 1995 is restricted to Lower Division Clerk, who do not belong to the Central Secretariat Clerical Services may be considered for promotion only after passing the typing test provided they are exempted in accordance with the prescribed procedure.

The Tribunal ultimately held that the pleading and the documents produced before the Tribunal do not instill any confidence that stepping up of pay at par with Gobinda Khan cannot be allowed to the respondents in view of the fact that the respondents ranked senior to Gobinda Khan in the list of the seniority published on 1st July, 2016. It was further indicated that Gobinda Khan was placed at serial no. 57, whereas all the respondents were placed above him.

Leave was sought at the time of moving the instant writ petition to file a supplementary affidavit to disclose further documents and an opportunity was given to the writ petitioners to file rejoinder to the counter-affidavit filed by the respondents.

In the affidavit it has been categorically averred that there is a pay anomaly and, in fact, the said Gobinda Khan has been extended such benefit by mistake and the authorities are taking steps to rectify such mistake and the exercise shall be undertaken to adjust the excess amount paid to the said Gobinda Khan. It is further averred that in the event such mistake is incapable of being redressed, the respondents should be placed at par with Gobinda Khan so far as the scale of pay is concerned.

Such being the stand taken in the rejoinder filed before us we think it takes care of the grievances of

the respondents. It gives an impression in us that the authorities have accepted the anomaly in the scale of pay so far as the respondents and Gobinda Khan are concerned. They have indicated therein that they would take necessary steps in this regard.

Obviously if the excess amount paid is irrecoverable or non-adjustable, the stand of the Union of India is very categorical that they would keep the respondents at par with the said Gobinda Khan and extend the benefits as given to the said person.

The aforesaid decision requires the procedure to be followed in this regard and, therefore, we feel that reasonable time must be given to the Union of India to complete the aforesaid exercise.

We, therefore, direct the Union of India to take decision whether the excess amount paid to Gobinda Khan is recoverable or adjustable and in the event it is found to be not so, the decision must be taken to extend the identical and similar benefits by fixing the scale of pay of all the respondents corresponding with the date of benefits given to Gobinda Khan within three months from date.

With the above observations the order of the Tribunal is modified to such extent.

The writ petition is thus disposed of.

There shall however be no order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)

