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

% Judgment delivered on: 31.08.2022

+ W.P.(C) 5458/2019

HARENDRA PRATAP SINGH

..... Petitioner

versus

UNION OF INDIA & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Ms. Jasvinder Kaur, Advocate (through VC)

For the Respondent: Mr. Ghanshyam Mishra, Central Govt. Counsel with Mr. Reham Khan, Ms. Priyank Verma, Ms. S. Mishra and Ms. Vinita Sharma, Advocates.

CORAM:-**HON'BLE MR. JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner impugns order dated 07.01.2019 whereby the Original Application filed by the petitioner has been dismissed holding that the post of Assistant Editor and Hindi Officer were dissimilar posts and as such the grade pay of the Assistant Editor's post could not be stepped up to be equivalent to that of the post of Hindi Officer.

2. Petitioner was appointed to the post of Hindi Assistant Editor in the year 1999. Post the recommendations of the Sixth Pay



Commission, Office Memorandum dated 24.11.2008 was issued which revised the pay scale of official language posts in various subordinates offices of the Central Government.

3. The pay scales of Hindi Translator/Hindi Officer as well as the Assistant Editor were also revised.

4. As per the petitioner, a disparity occurred in the said revision whereby the post of Senior Hindi Translator and Assistant Editor were placed in the same Grade Pay of ₹ 4600 (Pay Band-2) and the post of Hindi Officer was placed in the Grade Pay of ₹ 5400 (Pay Band-3) which was also the Grade Pay/Pay Band of Assistant Director.

5. Learned counsel for the petitioner submits that on petitioner's raising a grievance, pursuant to a direction by the Court, an Anomaly Committee was constituted and in 2013 there was a cadre restructuring whereby the post of Assistant Editor has been placed in the same Grade Pay/Pay Band as that of Assistant Director and Hindi Officer. However, the same has been done prospectively from 2013.

6. Learned counsel for the petitioner submits that since the anomaly was created with effect from 2006 by the Office Memorandum dated 24.11.2008, the anomaly should have been removed retrospectively from 2006 from the date the said memorandum was made effective.

7. This is disputed by the learned counsel for the respondent who submits that there was no anomaly and a cadre restructuring has taken



place which has placed the post of Assistant Editor in the same Grade Pay/Pay Band as that Assistant Director and Hindi Officer post 2013. He submits that the post of Hindi Officer and Assistant Editor are dissimilar posts and as such there were no similarities and thus there was no anomaly. He further submits that in any event the grievance of the petitioner has been redressed since the petitioner has been placed in the Grade Pay/Pay Band of Assistant Director.

8. The comparison of recruitment rules for the post of Assistant Editor as well as for the post of Hindi Officer as obtaining in the year 2006 show that the scale of pay of Hindi Officer as well as Assistant Editor was same.

9. For promotion to the post of Hindi Officer, the recruitment rules stipulated '*promotion from amongst Senior Hindi Translators with three years of regular service*'. However, for the post of Assistant Editor, the recruitment rules stipulated '*promotion from amongst Hindi Translators with five year service in the grade rendered after appointment thereon on a regular basis*'.

10. The difference in promotional rules noticed herein above is the only aspect which the Tribunal has relied upon to hold that the two posts were dissimilar.

11. It may be noticed that though the pay scales of Hindi Officer and Assistant Editor were same prior to the Office Memorandum dated 24.11.2008. The Office Memorandum places the post of Hindi Officer in the Grade Pay (Pay Band-3) which is the same as that of the



Assistant Director. The Post of Assistant Editor has been placed in the same Grade Pay (Pay Band-2) which is the same as that of Senior Translator.

12. Clearly an anomaly was created in the pay fixation for the reason that post of Senior Translator was the feeder post for the post of Assistant Editor. By the Office Memorandum dated 24.11.2008 (applicable retrospectively from 2006) both the feeder posts as well as the promotional posts were granted the same Grade Pay of ₹ 4600 (Pay Band – 2).

13. This would militate against the very service jurisprudence that a feeder post as well as the promotional post carries the same Grade Pay. It is not the case of the Respondents that the Recruitment Rules have also been changed with regard to the service requirement for promotion to the post of Hindi Officer and Assistant Editor. This implies that a Senior Hindi Translator requires only 3 years of regular service for consideration to for the post of Hindi Officer, which draws a higher Grade Pay, but requires 5 years of service for consideration for the post of Assistant Editor which draws a lower Grade Pay.

14. No doubt, the anomaly has been removed by a cadre restructuring in 2013 and the post of Assistant Editor has been brought in the same Grade Pay as that of Assistant Director and Hindi Officer, however this contradicts the very reasoning of the Tribunal that the posts are dissimilar for the reason that after a cadre restructuring in



2013 both the posts of Assistant Editor and Hindi Officer have been placed in the same Grade Pay/Pay Band.

15. In view of the above, we find that the Tribunal has clearly erred in rejecting the Original Application and holding that the petitioner is not entitled to the higher Grade Pay with effect from the date when the anomaly was created by the Office Memorandum dated 24.11.2008.

16. Accordingly, the petition is allowed. The impugned order is set aside and it is directed that the Post of Assistant Editor shall be placed in the Grade Pay of ₹ 5400 (Pay Band-3) with effect from date, the post of Hindi Officer was placed in the Grade Pay of ₹ 5400 (Pay Band-3) by the Office Memorandum dated 24.11.2008. Petitioner shall be paid the arrears of his salary within 6 weeks.

SANJEEV SACHDEVA, J.

TUSHAR RAO GEDELA, J.

AUGUST 31, 2022

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