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

% *Date of Decision: 2nd May, 2023*

+ **W.P.(C) 5659/2023**

ALOK MALHOTRA

..... Petitioner

Through: Mr. Udian Sharma,
Mr. Jaitegan Khurana and Ms. Vashita
Gupta, Advocates.

versus

**THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA**

..... Respondent

Through: Mr. Kaustubh Sinha and
Ms. Surbhi Mehta, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

CM APPL. 22158/2023 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 5659/2023

3. Present writ petition has been filed by the Petitioner seeking the following reliefs:-

“a. Issue a Writ of Certiorari and/or an appropriate Writ of similar nature, thereby quashing the Impugned Letter dated 04.01.2023 issued by the Institute of Chartered Accountants of India, i.e., the Respondent herein, and thereby removing the Petitioner's pay anomaly; AND

b. Issue directions to the Respondent to process the Representations made by the Petitioner regarding the issue of anomaly and expeditiously resolve the anomaly, thereby increasing the pay of the Petitioner, in accordance with law in a time bound manner, with consequential and pensionary benefits; AND

c. Direct the Respondents to re-produce the executed/ signed Reply of the ICAI dated 22.02.2017, issued vide Note No. ICAI/HRD(P)/230/2016.”

4. Petitioner retired as Deputy Secretary from the Institute of Chartered Accountants of India ('ICAI') in September, 2021 after serving for more than 39 years. The grievance of the Petitioner ventilated in the present petition is that after restoration of the Accelerated Promotion Scheme in the year 2015 w.e.f. 01.01.2006, Petitioner is drawing lesser salary than his juniors. It is submitted by learned counsel for the Petitioner that many of the juniors of the Petitioner such as Ms. Madhu Madan, Ms. Virender Kaur Walia and Ms. Renu Bakshi are drawing more pay than him which has created an anomaly and despite several representations to the Respondent, no steps have been initiated to step up the pay of the Petitioner. It is further submitted that Petitioner and his juniors belong to the same cadre and were promoted to the same posts starting from Section Officer to Assistant Secretary. It is not anyone's case that the juniors have acquired any additional qualification so as to receive higher pay than the senior and it is obvious that the anomaly is the result of giving effect to the Accelerated Promotion Scheme, since prior thereto, the juniors were drawing lesser salary than the Petitioner. It is urged that even after having made so many representations, Respondent has rejected the same by a non-speaking and unreasoned one-line order which does not even indicate the reason for not accepting the plea of the Petitioner.

5. Issue notice.

6. Mr. Kaustubh Sinha, learned counsel accepts notice on behalf of the Respondent.

7. This Court has examined the contentions raised on behalf of the Petitioner. It is true that the Petitioner was drawing lesser pay than his juniors prior to his superannuation as also that he had made several representations pointing out the anomaly. Finally, the Respondent

rejected the representation and Petitioner is right that the impugned order is a non-speaking order and is extracted hereunder, for ready reference:-

“Shri Alok Malhotra,

This has reference to DCOYA/E/2022/07507, DOPAT/E/2022/19108, DCOYA/E/2022/07704 and other queries regarding anomaly.

Your representation is examined and it is observed that no case is made out for anomaly as contended therein.

Please treat the correspondence on the subject as closed.”

8. It is clear from the aforesaid order that it does not disclose any reason for rejection of the claim of the Petitioner. Supreme Court has been repeatedly emphasizing that reasoned and speaking orders must be passed by the Authorities so that the person aggrieved is in a position to know the reason which has weighed with the employer for rejecting his claim. Additionally, if the order is reasoned, the Court which is called upon to adjudicate the claims of an employee, would also be in a position to understand why the grievance of the Petitioner has not been redressed by the employer, and passing of a reasoned order becomes important in a matter of this nature which pertains to pay fixation and pay anomaly in which it is crucial to understand the stand of the Respondent.

9. Therefore, in my view, it would be appropriate at this stage to dispose of the writ petition with a direction to the Respondent to consider the representations of the Petitioner and pass a reasoned and speaking order thereon. Petitioner has raised some legal issues in the present writ petition and therefore, it is further directed that the writ petition will be treated as a supplementary representation and the points raised herein will be taken into consideration by the Respondent before taking a final decision.

10. Respondent shall take a decision and pass a speaking order within a period of four weeks from today. The order will be communicated to the Petitioner within a week of passing of the order and the Petitioner shall be at liberty to take recourse to remedies available in law, if aggrieved and so advised.

11. Writ petition is disposed of, with the aforesaid directions.

JYOTI SINGH, J

MAY 02, 2023/pkv/shivam

