



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3279 OF 2024

(Union of India and others vs. Arvind Baburao Dhawale)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Ms.Ashwini Athalye, Advocate for the petitioners.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : JUNE 10, 2024

The respondent employee after superannuation on 28/02/2022 was served with an order of reduction of basic pay from Rs.60,400/- to Rs.58,600/-, which has prompted him to approach before the Central Administrative Tribunal by filing O.A.No.603/2022, which came to be allowed vide impugned judgment and order dated 21/08/2023.

2) Ms.Athalye, learned counsel appearing for petitioner would urge that the petitioner was granted the stepping up pay of Rs.60,400/- without he being entitled to the same, as the petitioner is entitled to pay of Rs.58,600/- and not Rs.60,400/-. According to her, the Tribunal committed an error in issuing directions to fix the pay of the respondent employee to Rs.60,400/- and further to calculate pensionary benefits based on the same.

3) She would claim that once the petitioner has demonstrated before the Tribunal that respondent's pay was incorrectly granted as that of Rs.60,400/- and the respondent employee was entitled for only Rs.58,600/-, the Tribunal ought not to have issued aforesaid directions.

4) We have considered the aforesaid submissions in the light of the observations made by the Tribunal in para 8 of the impugned order which reads thus :-

“8. The record produced by the applicant clearly shows that basic pay of the applicant was shown to be Rs.60,400/- on 1st August, 2021 and even on 1st January, 2022 basic pay was shown as Rs.60,400/-. At the time of passing Cessation Order it was reduced to Rs.58,600/-. Admittedly no notice was issued to the applicant before making any such recovery or before reducing the pay of the applicant. It is vaguely submitted in the reply that stepping up of pay was incorrectly granted in the year 1996. How this was wrongly fixed is not explained in the reply. Even otherwise, it is not permissible for the respondents to reduce the pay on this specious ground after 25 years. There is nothing on record to show that because of the malafides on the part of the applicant, pay was wrongly fixed.”

5) The fact remains that it was for the petitioner to demonstrate before the Tribunal, so also this Court that the respondent employee was not entitled for the basic pay of Rs.60,400/- and in fact was entitled to pay Rs.58,600/-. Even before this Court, so also the Tribunal, the petitioner has failed to demonstrate that the respondent employee is entitled for pay of Rs.58,600/- and not Rs.60,400/-.

6) Though Ms.Athalye, learned counsel for the petitioner has tried to pursue us, thereby stating that the another employee since was granted similar pay and a mistake to that effect was committed in regard to the other employee, in respondent's case same method was applied and incorrectly benefits were passed on.

7) We hardly see any material to that effect, so as to draw an inference that the petitioner has demonstrated the entitlement of particular pay to the respondent employee.

8) That being so, no error could be noticed, so as to cause interference in extraordinary jurisdiction. As such, the petition stands dismissed. No order as to costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)