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Writ Petition No.1100 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.04.2024

PRONOUNCED ON : 14.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition Nos.1100 & 1106 of 2020
WMP.No.1311 & 1322 of 2020**

- 1.Union of India,
Rep., by Controller General of Accounts,
Department of Expenditure,
Ministry of Finance,
MahalekhaNiyantarakBhawan,
GPO Complex, E Block, INA,
New Delhi – 110023. ... 1st Petitioner in both W.Ps.
- 2.Controller of Accounts,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi - 110 001.
- 3.Pay & Accounts Officer,
CPWD, Ministry of Urban Development,
Rajaji Bhavan, Chennai – 600 090.
... Petitioners in W.P.No.1100 of 2020
- 2.Chief Controller of Accounts
Principal Accounts Office,
Ministry of Urban Affairs & Employment,



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F-Wing, 2nd floor, Nirman Bhavan,
New Delhi – 110 001.

3. Senior Accounts Officer,
Ministry of Urban Development,
Pay & Accounts Office (Printing)
Shastri Bhavan, II Floor, Annexe,
Chennai – 600 006. ... Petitioners in W.P.No.1106 of 2020

Vs

1. The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai – 104. ... 1st Respondent in both W.Ps.,

2. S. Sampathkumaran,
Assistant Accounts Officer (Retd.),
No.780-J, North Avenue,
TNHB Colony, Korattur,
Chennai – 600 080. ... 2nd Respondent in W.P.1100/2020

2. T. A. Sanjeevi,
Senior Accountant (Retd.),
B-11, Mahalakshmi Flats,
23, Appakannu Street,
Lloyds Road,
Chennai- 600 014. ... 2nd Respondent in W.P.1106/2020

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records of the first respondent in OA.Nos.1273 & 1196 of 2016, dated 17.06.2019 & 25.07.2019 in disposing the O.A., filed by the second respondent herein and quash the same.

For Appellants : Mr. S. Janarthanam SPCGSC



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For Respondent :R1 Tribunal

R2- No Appearance in both W.Ps.,

COMMON ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

These Writ Petitions have been filed challenging the orders of the Central Administrative Tribunal wherein the Tribunal had held that the second respondent would be entitled to stepping up of pay on par with his junior with effect from the date when his junior was fixed at a higher pay, but however had granted liberty to the respondents to ascertain from the department, where the junior has been working, as to whether the similarly placed person like that of the second respondent had been granted stepping up of pay on par with his juniors and if so, then had directed the petitioners to pass orders re-fixing the pay of the second respondent on the same principle.

2.Heard Mr.S.Janarthanam, learned Central Standing counsel appearing for the petitioners.



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3.The learned Standing counsel would submit that the second respondents herein had filed applications namely O.A.No.310/01273/2016 with a relief to quash the order that had been passed by the first petitioner herein dated 29.08.2014 and to direct the petitioners to grant stepping up of the second respondent's pay to Rs.370 w.e.f., 24.05.1973 along with arrears, revision of retirement benefits and all other consequential benefits and secondly O.A No.310/101196/2016 for a relief of setting aside the order of the first petitioner dated 29.08.2014 and 30.06.2016 and to grant stepping up of pay to the second respondent to Rs.370/- w.e.f, 24.05.1973.

4.The Tribunal by its order dated 17.06.2019, had allowed O.A.No.1273 of 2016 by holding that the second respondent would be entitled for stepping up of pay on par with his juniors and had issued a direction to pass orders refixing the pay if any of the similarly placed persons who have been granted similar relief in the IA and AD Department. O.A.No.1196/2016 was disposed of on a similar directions.



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5.The learned Standing counsel appearing for the petitioner would submit that the claim of the second respondent to fix parity of pay on par with his juniors could not be entertained. He would submit that as per the third Central Pay Commission scales for UDC w.e.f., 01.01.1973 both the second respondents and their junior one Mr.Vijayakumar were receiving the same scale of pay. He would further submit that the pay as on 01.01.1973, the second respondent was receiving a sum of Rs.340/- whereas the said junior was only receiving Rs.330/-. The reason for difference in pay scale was due to the increment that was available to the second respondent for passing the departmental test. However, when the junior had passed the departmental test in view of the new pay scale of the third Central Pay Commission, he had received four advance increments and his pay scale was fixed at Rs.370/- and therefore, the said anomaly had occurred. The second respondents' junior had passed the exam on 24.05.1973, and the second respondent had passed the examination as early as in the year 1970. Therefore, their junior cannot be said to be receiving a higher pay than the second respondents resulting in an anomaly to step up the pay and therefore, he would submit that the order



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passed by the Tribunal would have to necessarily be interfered with as the Tribunal had not properly analysed the facts in the above circumstances.

He would submit that the Tribunal had not given any reasoning as to why such pay anomaly would have to be interfered with.

6.Inspite of notice to the second respondents, they have neither appeared in person nor through their counsel.

7.We have considered the submissions made by the learned standing counsel appearing for the petitioners.

8.It is an admitted case that the second respondents were seniors to one Mr.K.Vijayakumar with whom they seek parity with. It is also an admitted case that the second respondents had passed their Departmental Confirmatory Examination on 11.11.1970 and 12.11.1970 respectively and the second respondents' junior had passed the departmental exam on 24.09.1973. Prior to the third Pay Commission, the increment was Rs.5/-, however after the 3rd Pay Commission, the increment was Rs.10/- on passing Departmental Confirmatory Examination. The pay scales for both of them was Rs.130-5-160-8-200-EB-8-256-EB-8-280-10-300. In view of



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the increment, that had been received by the second respondents, the second respondents was receiving a pay of Rs.340/- as on 01.01.1973, whereas their junior was receiving a pay of Rs.330/-. After the third Pay Commission, the Junior has passed the examination and had got a four advance increments by which his pay scale had been increased to Rs.370/- thereby an anomaly of pay had been occurred. Both the second respondents as well as their junior had been doing the same nature of work and the anomaly had only arisen because of the difference in the benefit of increment that had been given on passing a particular departmental confirmatory examination. The second respondents cannot be found fault to pass the examination earlier than that of their juniors. In such view of the matter, we are of the view that there was no infirmity or error in the order passed by the Tribunal.

9.In such view of the findings, we are not inclined to interfere with the order passed by the Tribunal and in fine, Writ Petitions are dismissed. However, there shall be a direction to the petitioners to comply with the directions issued by the Tribunal within a period of 12 weeks from the date of receipt of a copy of this order. However, there



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shall be no order as to costs. Consequently connected Miscellaneous

Petitions are closed.

(D.K.K.,J.)

(K.B., J.)

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Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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D.KRISHNAKUMAR., J.
and
K.KUMARESH BABU.,J.

pbn

To

The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai – 104.

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14.06.2024