IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.6410 of 2020

1.Union of India,
Rep by Controller General of Accounts,
Ministry of Finance,
Department of Expenditure,
LokNayak Bhavan,
7th Floor, Khan Market,
New Delhi – 110 003.

2.Chief Controller of Accounts,
Office of Principal Accounts Office,
Ministry of Information & Broadcasting,
Shastri Bhavan,
New Delhi – 110 001.

3.Pay and Accounts Officer,
All India Radio,
Mylapore – Chennai – 600 004. ... Petitioners

Vs.

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

2.T.A.Rajendran ... Respondents

<u>Prayer</u>: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of 1st respondent in O.A. No.1195 of 2016 dated 29.08.2019 in disposing the O.A filed by the 2nd respondent with directions and quash the same.

For Petitioner	:	Mr.K.S.Jeyaganeshan
For Respondents	:	Mr.P.Balasbramaniam (for R2) Tribunal (R1)

<u>ORDER</u>

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ Petition has been instituted challenging the order 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.Mr.K.S.Jeyaganeshan, the learned Senior Panel Counsel would submit that the second respondent had filed application namely O.A.No.310/01195/2016 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.

3.The Tribunal by its order dated 29.08.2019, had allowed O.A.No.1195 of 2016 by holding that the second respondent would be entitled for stepping up of pay on par with his junior 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.

4.The learned Senior Panel 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 1972. 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 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.

5.It is an admitted case that the second respondent was senior to one Mr.K.Vijayakumar with whom he seek parity with. It is also an admitted case that the second respondent had passed his Departmental Confirmatory Examination on 25.11.1972 and the second respondents' junior had passed the departmental exam on 24.05.1973. Prior to the third Pay Commission, the increment was Rs.5/-, however after the 3 rd 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 the increment, that had been received by the second respondent, the second respondent was receiving a pay of Rs.340/- as on 01.01.1973, whereas his 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 his junior. 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.

6.In such view of the findings, we are not inclined to interfere with the order passed by the Tribunal and in fine, Writ Petition stands 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 shall be no order as to costs. Consequently connected Miscellaneous Petitions, if any, are closed.

[S.M.S., J.] **[M.J.R., J.]**

18.11.2024

Index: Yes/No
Speaking/Non-speaking order
gd

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

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

gd

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