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W.P. No. 16203 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 16203 of 2018

D.R. Sainathan

... Petitioner

Vs.

1.The President,
The Institute of Chartered Accountants of India,
“ICAI” Bhawan, Indraprastha Marg,
New Delhi – 110 002.

2.The Vice President,
The Institute of Chartered Accountants of India,
“ICAI” Bhawan, Indraprastha Marg,
New Delhi – 110 002.

3.The Secretary,
The Institute of Chartered Accountants of India,
“ICAI” Bhawan, Indraprastha Marg,
New Delhi – 110 002.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the third respondent to revise the petitioner's pay scale and fix the salary on par with the petitioner's junior and issue all the monetary and retirement benefits by considering the petitioner's representation dated 26.12.2017.

For Petitioner : Mr. R. Jayaprakash
For Respondents : Mr. R. Anish Kumar



ORDER

This Writ Petition has been filed seeking a direction to the third respondent to revise the petitioner's pay scale and fix the salary on par with the petitioner's junior and issue all the monetary and retirement benefits by considering the petitioner's representation dated 26.12.2017.

2. The case of the petitioner is that, Mr. R. Rajendran and Mr. K. Arumugam, who are juniors to the petitioner, have been drawing higher salary than the petitioner and as such, to re-fix the salary pay scale of the petitioner, the petitioner made a representation to the third respondent and in view of the fact that the said representation has not considered by them, the petitioner is constrained to file this writ petition, besides seeking a direction to pay all the monetary and retirement benefits to the petitioner.

3. The case of the respondents is that Mr. R. Rajendran was promoted as Section Officer prior to the petitioner and as such, he is drawing higher salary than the petitioner. It is also submitted by the learned Standing Counsel for the respondents that due to unsatisfactory performance of the petitioner, his promotion to the post of Section Officer was deferred for six months vide order dated 03.11.1988. Due to this reason, Mr. R. Rajendran, drawing higher pay than the



petitioner. With regard to Mr. K. Arumugam, it is contended by the learned Standing Counsel for the respondents that at no point of time, Mr. Arumugam had drawn more salary than the petitioner. Even on the date of superannuation, the petitioner has been drawing the basic pay of Rs.88,400/- and the said Mr. K. Arumugam was drawing a basic pay of Rs.85,800/-. In view of the same, the learned Standing Counsel submits that there is no pay anomaly as alleged by the petitioner and sought to dismiss the writ petition.

4. Having considered the facts and circumstances of the case and the rival contentions advanced by the learned counsel appearing on either side, this Court satisfied with the submissions of the learned Standing Counsel for the respondents. Admittedly, there is no pay anomaly in the petitioner's issue compared to his juniors. As such, interference of this Court on that aspect is not required.

5. However, considering the fact that in the counter affidavit filed by the respondents, it is stated that the respondents have released all monetary benefits to the petitioner for which he is entitled except the ex-gratia amount. With respect to the ex-gratia amount, for the period 01.01.2016 to 31.05.2016, it is stated in the counter that due to non submission of the requisite declaration in the prescribed format, the ex-gratia amount could not be released to the petitioner.



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6. As such, it is clear that the petitioner is entitled for the ex-gratia amount, if he is able to submit the requisite declaration in the prescribed format. In view of the same, in the considered opinion of this Court, it is appropriate and reasonable to dispose of this writ petition with the following direction in the interest of justice: -

(i) The petitioner shall submit requisite declaration in the prescribed format to the third respondent within a period of two weeks from today.

(ii) On receipt of the declaration from the petitioner, the third respondent shall release the ex-gratia amount to the petitioner within three weeks thereafter.

7. There shall be no order as to costs.

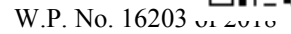
02.09.2024

Index :Yes/No

Neutral Citation :Yes/No

AT

Note: Issue order copy within three days.



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BATTU DEVANAND, J.

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