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

+ **W.P.(C) 9786/2024**

PROF P C TULSIAN

.....Petitioner

Through: **Mr. Bajrang Vats, Advocate**

versus

RAMJAS COLLEGE THROUGH ITS PRINCIPAL & ORS.

.....Respondents

Through: **Mr. Anurag Mathur, Advocate for R-1.**

Mr. Mohinder J.S. Rupal and Mr. Hardik Rupal, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **19.07.2024**

1. This writ petition has been preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking the following reliefs:-

"I- Declare that the Impugned Recovery Letter Dated 16.03.2024 (Annexure P-1) and Pay Fixation Letter Dated 15.02.2024 (Annexure P-2) are wrong, unjust, illegal, arbitrary, unconstitutional, erroneous, mala-fide and liable to be quashed/ set aside for want of compliance of the principle of natural justice; and

II- Issue a writ of certiorari or other appropriate writ to quash/set aside the Impugned Recovery Letter Dated 16.03.2024 (Annexure P-1) and Pay Fixation Letter Dated 15.02.2024 (Annexure P-2); and

III- Issue a writ of mandamus or other appropriate writ to the respondents to refund alleged excess payment of Rs 8,33,996/- recovered from gratuity along with 10% per annum rate of interest from date of recovery till date of refund; and

IV- Declare that the petitioner is entitled for restoration of pay at the minimum of 14940/- in the pay scale of Rs. 12000-18300/- consequent upon completion of 5 years of service as Lecturers (Selection Grade) with



effect from 26.07.2003 as approved vide the University Letter No. CB-I/fix of pay/200/26566 Dated 13.11.2003 in the light of para 19 of the Judgment Dated 31.05.2012 passed by Hon'ble Himachal Pradesh High Court in CWP No. 4667 of 2009 titled Ashok Kumar Gupta versus Union of India and Others.

V- Issue a writ of mandamus or other appropriate writ to the respondents for restoration of pay at the minimum of 14940/- in the pay scale of Rs. 12000-18300/- consequent upon completion of 5 years of service as Lecturers (Selection Grade) with effect from 26.07.2003 as approved vide the University Letter No. CB-I/fix of pay/200/26566 Dated 13.11.2003 along with consequential pay re-fixation and arrears; and

VI- Issue a writ of mandamus or other appropriate writ to the respondents to pay the petitioner difference of Rs. 5,00,000/- in gratuity by paying total gratuity of Rs. 25,00,000/- instead of 20,00,000/- along with 10% per annum rate of interest from date of retirement till date of payment; and

VII- Pass such other orders/directions as this Hon'ble Court deem necessary to secure ends of justice."

2. Case of the Petitioner, as set out in the writ petition, is that Petitioner was appointed as a Lecturer on *ad-hoc* basis in Commerce Department of Respondent No.1/Ramjas College w.e.f. 19.09.1984 in the pre-revised scale of Rs.700-1600 and the term was extended from time to time. Petitioner was thereafter appointed on temporary basis w.e.f. 12.09.1985 with a revised pay scale of Rs.2200-4000 under the 4th CPC w.e.f. 01.01.1986 and was confirmed w.e.f. 15.12.1988 and the period of probation was waived on account of past service of 4 years.

3. It is further averred that Petitioner was promoted as Lecturer Senior Scale Grade in the pay scale of Rs.3000-5000 w.e.f. 04.05.1992 and his basic pay was fixed at Rs.3000/-. The promotion was approved by the University on 20.05.1993. On 24.12.1998, UGC issued a Notification on revision of pay scales, etc. and basic pay of the Petitioner was thereafter revised in 1999 to Rs.10,325/- in the pay scale of Rs.10000-15200 consequent to grant of 5th CPC benefits. Subsequently, Petitioner was



promoted as Lecturer Selection Grade/Reader Grade and University accorded approval on 13.11.2003, for pay fixation at Rs.14,940/- in the pay scale of Rs.12000-18300 on completion of 5 years of service. On 22.03.2010, approval was granted by the University for fixation of pay at Rs.49,890/- in PB-4 with AGP Rs.9,000/- under 6th CPC.

4. It is stated that on 23.02.2018, University accorded approval for fixation of pay and resultantly pay of the Petitioner was re-fixed w.e.f. 01.07.2003 and pay of the Petitioner fixed earlier at Rs.14,940/- and approved by the University in Lecturer Selection Grade/Reader Grade was withdrawn. Additionally, pay of the Petitioner fixed at Rs.16,200/- with the approval of the University in the pay scale of Rs.12000-18300 w.e.f. 31.10.2004, consequent upon grant of two non-compoundable increments on completion of Ph.D. during service on or after 01.01.1996, as per 5th CPC Recommendations, was also withdrawn. Constrained with this withdrawal, Petitioner approached Respondent No.2 to know the reasons for the action and that too without any show-cause notice but there was no response.

5. On 05.03.2024, Petitioner was promoted as Professor from Stage-IV to Stage-V under CAS-2018 w.e.f. 01.07.2022 and his basic pay was revised to Rs.2,18,200/-. Respondent No.1 issued a recovery letter on 16.03.2024 seeking recovery of alleged excess payment of Rs.8,33,996/-. Petitioner requested the College to consider waiver of the recovery in view of DoPT O.M. dated 02.03.2016 issued in light of the judgment of the Supreme Court in ***State of Punjab and Others v. Rafiq Masih (White Washer) and Others, (2015) 4 SCC 334*** and judgment dated 31.05.2022 passed by Himachal Pradesh High Court in CWP No.4667/2009 titled '*Ashok Kumar Gupta v. Union of India and Others*'. Petitioner has retired on 30.04.2024 and by



order dated 06.06.2024, Respondent No.1 has deducted the alleged excess payment from the gratuity amount payable to the Petitioner, compelling the Petitioner to approach this Court.

6. Issue notice.

7. Mr. Anurag Mathur, learned counsel accepts notice on behalf of Respondent No.1.

8. Mr. Mohinder J.S. Rupal, learned counsel accepts notice on behalf of Respondent No.2.

9. After hearing learned counsels for the parties and perusing the writ petition, it is evident that the alleged excess amount stands deducted from the gratuity amount payable to the Petitioner and he has received the balance amount of Rs.11,66,004/-. It is also evident that so far, no representation has been made by the Petitioner and there is no order on record indicating the reasons for recovery, save and except, pay fixation letters. As a result, it is not known at this stage as to what prompted the Respondents to issue the recovery letter dated 16.03.2024 and recover the alleged excess amount from the gratuity.

10. In my view, in these facts and circumstances, it would be appropriate at this stage, to dispose of the writ petition with a direction to the Competent Authority in Respondent No.1/College to treat this writ petition as a representation on behalf of the Petitioner and decide the same by a reasoned and speaking order within a period of eight weeks from today, taking into account all factual and legal issues raised by the Petitioner. Before taking a decision, Petitioner will be called for a personal hearing, for which the date and time will be intimated to the Petitioner in writing, well in advance. The decision so taken shall be communicated to the Petitioner within one week



from the date of the decision and it would be open to the Petitioner to take recourse to legal remedies, in case of any surviving grievance. It is made clear that this Court has not expressed any opinion on the merits of the case and it is open to the Competent Authority to take a decision, in accordance with law.

JYOTI SINGH, J

JULY 19, 2024/kks/shivam