



2024:DHC:1279



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

Date of decision: 16th FEBRUARY, 2024

IN THE MATTER OF:

+ **W.P.(C) 15551/2022**

SUMAN KALA

..... Petitioner

Through: Petitioner in person.

versus

GOVT OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The instant writ petition has been filed by the petitioner who appears in person seeking directions to the Respondents to implement the Order No. F.No.DE.3(32)/E-III/Misc./2018/3871-81 dated 22.05.2018 and to initiate an enquiry against Head-Clerk, Govt. Co-Ed Sr. Sec School (Gandhi) Brahmpuri.

2. The facts leading to the present case are that the Petitioner was appointed as an Assistant Teacher for Hindi in the Government Aided Gandhi Senior Secondary School, Brahmpuri, Ghonda, Delhi on 07.07.1993. Thereafter, the Petitioner was promoted as Trained Graduate Teacher (TGT) for Hindi on 24.04.2001 and was further promoted to Post Graduate Teacher (PGT) for Hindi on 17.02.2011. The petitioner superannuated from service on 30.09.2015.



3. Material on record discloses that after the petitioner superannuated from service, she was paid her retiral benefits in the year 2016 including her commutation of pension, gratuity and leave encashment totalling to Rs. 13,52,742.
4. It is stated that the Supreme Court *vide* Order dated 01.09.2017 in Govt. of NCT of Delhi & Anr. v. Somivir Rana & Ors., SLP Diary No. 23663/2017 directed Government of India to issue a circular regarding grant of a revised pay-scale to such persons who were promoted to the post of Trained Graduate Teachers (TGT) at par with TGT's who were appointed through direct recruitment process.
5. Pursuant to the directions of the Apex Court in Somivir Rana (supra), the Department of Expenditure, Ministry of Finance, Government of India issued OM No. 8-5/2017 E-III(A) dated 16.04.2018 whereby approval was granted to the Chief Secretary, Education Department, GNCTD to extend the same benefit to all TGT's who were appointed on or before 01.01.2006 and grant them a revised basic-pay to the level of TGT's appointed through direct recruitment. It was also observed through the OM that financial implication shall be borne by the GNCTD.
6. The Respondent No. 2 Directorate of Education, GNCTD, thereafter issued the Order No. F.No.DE.3(32)/E-III/Misc./2018/3871-81 dated 22.05.2018 which the petitioner seeks an implementation of. The Order dated 22.05.2018 reads as follows:-



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F.No.DE.3(32)/E-III/Misc./2018/3871-81

Dated: 22-5-18

ORDER

The Hon'ble Supreme Court of India vide order dated 01.09.2017 in SLP Diary No.23663/2017 titled as Govt. of NCT of Delhi and another vs Somvir Rana and others, on the issue of refixation of pay of existing teachers not below the stage lower than the pay which could be drawn by a direct recruit appointee on or after 01.01.2006, had directed the Government of India to immediately look into the matter and issue appropriate orders for granting the pay scale of Rs.17140/-.

The Department of Expenditure, Ministry of Finance, GOI, vide OM No. 8-5/2017-E.III(A) Dated 16.04.2018 has now ordered that all those TGTs who were appointed as such prior to or subsequent to 01.01.2006, their pay may be re-fixed at the level of entry pay applicable to TGTs appointed as DRs on or after 01.01.2006. The re-fixation of pay would take place on 01.01.2006 or the date of appointment as TGTs, whichever is later.

Now, therefore, in view of the above order, all HoS/DDEs are hereby directed to implement the said order for all similarly situated teachers working in this Directorate, the pay of all TGTs appointed on or before 01.01.2006 should be re-fixed accordingly.

This issues with the concurrence of Finance Department vide U.O.No.31/Fin. (Estb-III)/2017/874 dated 14/05/2018 and prior approval of the Competent Authority.

(VINOD KUMAR)
ASSTT. DIRECTOR (EDUCATION)

F.No.DE.3(32)/E-III/Misc./2018/3871-81

Dated: 22-5-18

Copy to:

1. P.S to Secretary (Education).
2. P.S. to Director (Education).
3. P.S. to Spl. Director of Education
4. All Regional Directors, Dte. Of Education, GNCT of Delhi.
5. All Distt. DDEs, Dte. Of Education.

7. It is stated by the Petitioner that she made an application to the Principal, Gandhi Co-Ed Senior Secondary School, Brahmpuri, Delhi on 29.09.2020 to extend the benefit of the OM dated 22.05.2018 to her and grant a revised basic pay-scale of Rs. 17,140.

8. Material on record discloses that the Director of Education was in receipt of the application of the Petitioner and the same was sent to the



Department for approval of the competent authority.

9. It is stated by learned Counsel for the Respondent that a pay fixation order was issued by the competent authority whereby the pay of the Petitioner was re-fixed under Rule 7(1)(A) (i) and (ii) of the CCS (Revised Pay) Rules, 2008, and her pay band was fixed to 9300-34800 + GP 4600) w.e.f. 01.01.2006. It is also stated by learned Counsel for the Respondents that the salary arrears bill of the Petitioner was submitted for the approval of the competent authority on 07.08.2021 and the same was submitted to the DDO, District North East-II.

10. The Id. Counsel for the Respondents also submits that after a revised pay-scale was granted to the petitioner, the same was to be released to her by the Principal Accounts Officer, VIII upon furnishing an undertaking stating that no claim had been drawn by her earlier. The Ld. Counsel apprised this court of the fact that the undertaking was never furnished, due to which the file of the petitioner had to be re-submitted to the department for necessary action.

11. At this juncture, it is also pertinent to mention that the Petitioner approached the School in the interregnum regarding the status of her application. The petitioner also filed a complaint against the head clerk of the school, Ravi Kumar Chadha on 11.04.2022 alleging that when she had approached the head clerk for processing her application for payment of pension and other terminal benefits, he demanded a commission totalling to 5% of the arrears payable to her. It is stated by the petitioner that no action was taken against the clerk pursuant to the complaint.

12. *Per contra*, learned Counsel for the Respondents submits that on receipt of the complaint by the Petitioner against the head clerk Ravi Kumar



Chaddha, a Committee was constituted on 11.04.2022 and the head clerk was called upon to explain his actions. The Ld. Counsel stated that *vide* letter dated 05.11.2022, the head clerk submitted that there was no delay on his behalf and all files were processed timely and the same were sent to the competent authority for approval. It was observed by the committee that the allegations levelled by the Petitioner are baseless and there was no such demand as alleged by the Petitioner.

13. Learned Counsel for the Petitioner states that because of various delays by the department as well as officials of the school, a legal notice was sent to the Deputy Director, Directorate of Education, NE-2/Respondent 2 on 18.08.2022 for re-fixing her basic pay-scale and to provide her the arrears of her re-fixed salary, pension and other terminal benefits with 24% interest p.a. from the date of her entitlement. The petitioner also demanded a further enquiry into the alleged demand of bribery by the Head Clerk of the school to process her application.

14. *Per Contra*, the learned Counsel for the respondent submits that some of the sums due and payable by the respondents were already released prior to the receipt of the legal notice, and the remaining sums were paid to her in pursuance to the legal notice. The learned Counsel places on record a letter dated 30.11.2022 whereby the School wrote to the petitioner stating the following:-

This is to inform you that the Pensionary Benefits/Salary Arrears after re-pay fixation have been released as under:

<i>Pensionary benefits/arrear</i>	<i>Details of benefits after re pay fixation (difference/arrear calculated)</i>	<i>Remarks</i>
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<i>Revised Pension</i>	<i>11995/-</i>	<i>Copy attached</i>
<i>Revised Pension (As per 7th CPC)</i>	<i>31100/-</i>	<i>Copy attached</i>
<i>Gratuity</i>	<i>22165/-</i>	<i>Additional amount of Gratuity payable by the bank due to revision</i>
<i>Commutation</i>	<i>18092/-</i>	<i>Differential commuted value pension payable by the bank</i>
<i>Leave encashment</i>	<i>13232/-</i>	<i>Additional amount of leave encashment paid by PAO-VIII, and payment has been done through E-payment</i>
<i>Salary arrear</i>	<i>164016</i> <i>Amount tax (-) 18720</i> <i>Net Amount 145296</i>	<i>Paid by PAO-VIII, and payment has been done through E-payment</i>

15. The Ld. Counsel for the Respondent further apprised this court of the fact that the arrears of the Revised Pension, Revised Leave Encashment as well as the Revised Pension as per 7th CPC were paid to the petitioner in the year 2022. He further stated that the amounts of Gratuity and Commutation of Pension were to be paid by the Bank which was also approved by the PAO - VIII. A similar letter dated 05.12.2022 was also sent by the School to the Deputy Director of Education/Respondent 3 informing them of the release of Pensionary Benefits and Salary Arrears of the petitioner herein.

16. It is stated by the Petitioner that despite receiving the letter 30.11.2022 she never received some of the arrears which were to be disbursed by the bank. The Petitioner replied to the letter dated 30.11.2022



stating that the Petitioner had never received the arrears of her revised gratuity and revised commutation of pension and she further states that pension arrears for the month of October, November and December, 2015 were also not paid to her and she has been made to approach the bank on numerous occasions without any relief.

17. *Per Contra*, the Ld. Counsel for the Respondent submits that the School had already taken steps to ensure that the revised amounts of gratuity and commutation of pension be paid to the petitioner by the Bank. He states that *vide* letter dated 06.05.2023, the School had requested the Canara Bank, GT Road, Shahdara to look into the issue as to whether the revised amounts have been disbursed to her, and if not, the same should be disbursed to her soon. The Ld. Counsel submits that pursuant to the letter, the revised amounts of Gratuity and Commutation of pension were also paid to her on 09.05.2023.

18. Heard the parties and perused the material on record.

19. The main contention of the Petitioner is that despite the communication dated 30.09.2022 wherein she was told that all her benefits have been released to her, the Petitioner has not been paid certain amounts. However, the respondents have categorically stated that all the pensionary benefits including salary arrears, gratuity, commutation and leave encashment have already been disbursed to the Petitioner in the year 2016 and the differential amounts pursuant to the Order dated 22.05.2018 have also been disbursed to her in the year 2022 and 2023.

20. At this juncture, it is relevant to reproduce the relevant portion of the counter affidavit filed by the Respondent. The same reads as under:-

“4. That having served the respondent school as TGT



and PGT w.e.f 24.4.2001 and 17.2.2011 respectively and having been superannuated from the respondent school on 30.9.2015, the petitioner has raised the primary contentions that she has not been granted the benefit of refixation of salary in view of the Order dated 22.5.2018 whereby the government took a conscious decision to refix the basic pay of the TGTs w.e.f 1.1.2006 or the date of appointment of TGTs. The petitioner further contended that the respondent No. 5 demanded some commission against clearing the arrears of the refixed pay.

5. That it is submitted that there is no delay on the part of the answering respondent in implementing the said Office order dated 22.5.2018. It is submitted that the petitioner was initially appointed as Assistant teacher in Gandhi Sr. Sec. School Brahmpuri (Ghonda) Delhi on 07.07.1993 and she joined her duty on 15.07.1993. She was promoted as TGT (Hindi) on 24.04.2001 & PGT (Hindi) on 17.02.2011 respectively and superannuated on 30.09.2015.

6. That it is submitted that the Gandhi Sr. Sec. School Brahmpuri (Ghonda) was taken over by the government vide Order dated 10.08.2018 and it became the 100% taken over aided school which was converted as Govt. Co-ed Sr. Sec. School (Gandhi) Brahmpuri Delhi. It is pertinent to mention here that the school since has been working as a Govt. school but the status of teacher & other staff members has not been changed yet and at present there are two kind of staff (Govt. staff & Aided Staff) working in this school. The salary of Aided staff is paid through Grant in Aid fund or D.D.O. Distt. N/E-II, Nand Nagri Delhi.

7. That the petitioner moved application for repay fixation on 23.09.2020 and the same was immediately processed, file was sent to the department for the



approval of competent authority on 25.09.2020. After the grant of approval, the pay fixation order was issued on 27.07.2021 and the pay of petitioner was revised under Rule 7(1)(A)(i) & (ii) of CCS (Revised pay) Rules, 2008 in PB-2 (9300-34800 + GP 4600) w.e.f. 01.01.2006. Immediately thereafter, the salary arrear bill for the petitioner was submitted for the approval of competent authority on 07.08.2021 and since the salary and other financial benefits of Aided staff are being paid through Grant in Aid fund of D.D.O. Visit N/E-11, Nand Nagri Delhi. Therefore, the arrear in respect of revised pay fixation @ Rs17140/- (minimum TGT Pay level) were also to be paid through Grant in Aid fund of D.D.O. Distt N/E-II."

21. Material on record discloses that the Respondents have already directed the bank to release the money to the Petitioner. The Respondents have taken a stand that the entire money stands disbursed to the Petitioner.

22. This Court does not have any reason to disbelieve the Respondents that all the amounts have been deposited in the account of the Petitioner in terms of the order dated 22.05.2018 passed by the Directorate of Education, GNCTD. The Petitioner has chosen not to make the bank a party of the proceedings.

23. The Petitioner is always at liberty to approach the bank for any remaining disbursement of the sums, as the respondents have categorically stated that all the amounts due and payable to the petitioner have already been released. It has also been observed that the Respondent School has also written to the Bank pursuant to which further amounts have been disbursed to the petitioner.

24. In view of the above, this Court does not find any necessity to issue further directions in the present writ petition.



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25. The petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 16, 2024

hsk/tn

Signature Not Verified

Digitally Signed By: HARIOM
SINGH KIRMOJIYA
Signing Date: 19.02.2024
19:16:28

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