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

+ **W.P.(C) 10161/2024**

DR RACHNA CHAUDHARY

.....Petitioner

Through: Mr. Abhik Chimni, Ms. Nabira Farman, Mr. Maarooof, Ms. Pranjal Abrol and Mr. Anant Khajuria, Advocates

versus

DR BR AMBEDKAR UNIVERSITY DELHI

.....Respondent

Through: Mr. Mohinder J.S. Rupal and Mr. Hardik Rupal, Advocates

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **25.07.2024**

CM APPL. 41747/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 10161/2024 and CM APPL. 41746/2024 (interim stay)

3. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India laying a challenge to order dated 12.04.2024 whereby Respondent University has re-fixed the pay of the Petitioner in PB-3 (Rs.15600-39100) with Academic Grade Pay (AGP) of Rs.6000/- from the date of joining i.e. 22.07.2010.
4. As per the averments in the writ petition, Petitioner applied for the post of Assistant Professor in Gender studies in the School of Human Studies at the Respondent University. The Selection Committee, after



considering Petitioner's merit and past experience, appointed the Petitioner as Assistant Professor in the Pay Band of Rs. 15,600-39,100 (PB-3) with an AGP of Rs. 6,000/-. On 22.07.2010, Petitioner joined the Respondent and was asked to furnish details of her regular pay scale in her previous employment. Petitioner shared the details of her last drawn salary at Vivekanand Institute of Professional Studies (VIPS) as Reader/Associate Professor in PB-3 with AGP of Rs. 8000/-. Respondent after due deliberation and keeping in view the academic record and previous post of the Petitioner, took a decision at the highest level i.e. Board of Management and fixed the pay of the Petitioner at Rs. 24,250/- plus AGP of Rs. 8000/-. Thereafter, on 01.01.2016, Petitioner became eligible for promotion to the post of Associate Professor under the Career Advancement Scheme. On 22.09.2017, Petitioner was promoted pursuant to recommendation of the Selection Committee vide Office Order No. AUD/3-3(34)/Acad Ser/CAS/2010/848. Petitioner's promotion was effective from 01.01.2016 and her pay was fixed in Rs.37400-67000 (PB-4) with AGP of Rs. 9000/- with effect from 01.01.2016, in accordance with the UGC Regulations.

5. The grievance of the Petitioner is that after 14 years, Respondent arbitrarily and without any prior notice issued an Office Order bearing No. AUD/3-3(34)/2010/Acad/207 dated 12.04.2024 whereby pay of the Petitioner was re-fixed in PB-3 (Rs.15600-39100) plus AGP of Rs. 6000/- from the date of joining i.e. 22.07.2010. Prior to the impugned order dated 12.04.2024, Petitioner's pay for the month of March, 2024 was: Basic Pay of Rs. 1,61,600/- with an AGP of Rs. 9000/-, whereas after the illegal re-fixation, pay of the Petitioner for the month of April, 2024 and onwards is: Basic Pay of Rs. 95,300/- with an AGP of Rs. 6000/-.



6. Petitioner states that several representations dated 15.04.2024, 16.04.2024, 29.04.2024, 05.06.2024 and 14.06.2024 have been made to the Respondent seeking information as to why the impugned decision has been taken despite the fact that she was earlier granted pay protection of the pay drawn in the erstwhile appointments and that too without putting her to any notice, but to no avail. Reliance is placed by the Petitioner on the judgment of the Supreme Court in *Ram Ujarey v. Union of India, (1999) 1 SCC 685*, for the proposition that a vested right accrued to an employee cannot be taken away without explaining the reason to do so and without following principles of natural justice. A decision taken by the Respondent at the highest level of the Finance Committee, the Vice-Chancellor and the Board of Management (BOM) cannot be upturned arbitrarily, according to the Petitioner.

7. Issue notice.

8. Mr. Rupal, learned counsel accepts notice on behalf of the Respondent.

9. From a reading of the impugned order, as rightly contended by the Petitioner, it cannot be discerned why the pay of the Petitioner has been re-fixed and that too after 14 years, once a decision was taken at the highest level in the University to fix the pay initially. Petitioner is right in her submission that before taking a decision adverse to the Petitioner, she should have been put to notice intimating the reasons for recalling the earlier decision and calling upon her to represent against the same. In this view of the matter, the impugned decision which is wholly non-speaking and without following the principles of natural justice cannot be sustained.



10. Accordingly, this writ petition is disposed of directing the Respondent to decide the representation dated 29.04.2024 made by the Petitioner, after giving her an opportunity of hearing, for which the date and time will be intimated by the Respondent one week in advance. The decision will be taken within six weeks from today. Needless to state that Respondent shall pass a reasoned and speaking order, which shall be communicated to the Petitioner within one week thereafter and Petitioner shall be at liberty to take recourse to legal remedies in case of any surviving grievance. The impugned order dated 12.04.2024 is accordingly set aside with liberty to the Respondent to decide in accordance with law and uninfluenced by any observations made in the present order. Till a fresh decision is taken, Petitioner will be paid as per the pay fixation in March, 2024, as this *status quo* has continued for the last 14 years upto the passing of the impugned order.

11. Pending application stands disposed of.

JYOTI SINGH, J

JULY 25, 2024/kks/shivam