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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 14937/2023 & CM APPL. 59590/2023 -Stay.

GOVT OF NCT OF DELHI AND ORS

..... Petitioners

Through: Mr. Gaurav Dhingra and Mr.
Shashank Singh, Advocates.

versus

RAJIV KUMAR KHANNA

..... Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

02.04.2024

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1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 05.01.2023 passed by the learned Central Administrative Tribunal in O. A. No. 753/2017. Vide the impugned order, the learned Tribunal has allowed the original application filed by the respondent by directing the petitioners to step up his pay by bringing it at par with the pay drawn by Sh. J. S. Rawat and Ms. Anita Sardana, who were juniors to him in the seniority list of DASS Grade - II.

2. Pursuant to the last order, the petitioners have filed an additional affidavit along with a chart depicting the seniority position of the respondent vis-à-vis that of Sh. J. S. Rawat and Ms. Anita Sardana. The said chart also depicts the date on which these three employees were granted promotion as DASS Grade – II as also the dates on which they were granted the benefits under the ACP scheme



and the MACP scheme. For the sake of convenience, we may note the following extracts from the said chart herein below:

Name of Officer	Sh. Rajiv Kumar Khanna (Respondent) Grade-I (DASS)	Sh. J.S. Rawat* Grade-I (DASS)	Ms. Anita Sardana Grade-II (DASS)
Date of Initial Appointment	Stenographer Grade-III Dated 19.7.1985	Stenographer Grade-III in the year 1985	1. Grade IV (DASS) Delhi Administrative Subordinate Services in the year 1982 2.Promoted on 30.9.1992 s Grade-III
Date of promotion as Grade-II (DASS)	20.12.2004 (S. No. 6936)	20.12.2004 (S.No.6938)	19.11.2010 (S.No. 8289)
Pay as on 1.1.2006 in the pre-revised scale	Rs. 6050 (5000-8000) Rs.6550 (5500-9000)	Rs. 6050 (5000-8000) Rs.6550 (5500-9000)	Rs. 5200 (4000-6000)
Pay fixed as on 8.01.2006	Rs. 12190+4600 Rs.16,790	Rs. 12190+4600 Rs.16,790*	On grant of IInd financial up-gradation under ACP as per fitment table. Rs. 13860 + Rs 4600= Rs. 18460



Grant of MACP in the pay scale of 1.09.2008	Rs. 14310+4800=Rs. 19,110	Rs. 14310 +4800=Rs. 19,110*	Rs.15580+4800 = Rs. 20,380
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3. From a perusal of the aforesaid chart, it clearly emerges that while both the respondent and Mr. JS Rawat joined DASS as a Stenographer Grade – III in 1985, Ms. Anita Sardana joined the said service as a Grade IV employee in the year 1982 and was promoted to the Stenographer Grade III only on 30.09.1992, i.e., more than 7 years after the respondent and Mr. Rawat had joined service as Grade - III. Thereafter, both the respondent and Sh. J. S. Rawat were promoted to Grade - II on 20.12.2004, whereas Ms. Anita Sardana was promoted to the said Grade only on 19.11.2010. Accordingly, in the seniority list, the respondent was placed at serial no. 6936 whereas Sh. J. S. Rawat and Ms. Anita Sardana were placed at serial no. 6938 and 8289 respectively. It is, therefore, evident that the respondent has always been senior to Ms. Anita Sardana and the anomaly in the pay of both the respondent and Sh. J. S. Rawat arose on 08.01.2006 when the pay of the respondent and Sh. J. S. Rawat was fixed as Rs. 16,790/- while that of Ms. Anita Sardana was fixed at Rs.18460/-. We may also note that vide an order dated 31.03.2016, passed by the petitioners themselves, the pay of Sh. J. S. Rawat was stepped up at par with Ms. Anita Sardana w.e.f. 08.01.2006.

4. In the light of this factual matrix, when it is evident that the respondent is senior to both Sh. J. S. Rawat and Ms. Anita Sardana and the pay of Sh. J. S. Rawat was stepped by the petitioners



themselves so as to bring it at par with that of Ms. Anita Sardana, we fail to appreciate as to why the respondent's pay should not have been suitably stepped up by the petitioners themselves.

5. When faced with this situation, learned counsel for the petitioners seeks to rely on OM dated 04.02.1966 issued by the DoPT and contends that such stepping up of pay is not permissible if a junior officer is drawing higher pay by virtue of grant of advance increments. In the light of the admitted position that no advance increment was ever granted to Ms. Anita Sardana, we fail to appreciate as to how this OM forwards the case of the petitioner in any manner. We, therefore, find no reason as to why the respondent should draw lesser salary than the person who is much junior to him in the seniority list. In the light of the aforesaid, we find absolutely no reason to differ with the view taken by the learned Tribunal.

6. The writ petition being meritless is dismissed along with accompanying application.

REKHA PALLI, J

DR. SUDHIR KUMAR JAIN, J

APRIL 2, 2024

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