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

+ **W.P.(C) 11004/2024**

MS POOJA KAUL THUSOO AND ORSPetitioners

Through: Ms. Rashmi Chopra, Ms. Fiza Chopra, Mr. Parikshit Singh and Mr. Puneet Rathi, Advocates.

versus

**DELHI SKILL AND ENTREPRENEURSHIP
UNIVERSITY AND ORS**

.....Respondents

Through: Mr. Shivendra Singh and Mr. Bikram Dwivedi, Advocates for Respondents No. 1 and 2.
Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Advocate for Respondents No.3 and 4.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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08.08.2024

CM APPL. 45412/2024

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

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3. This writ petition has been preferred on behalf of the Petitioners seeking release of arrears of pay revision under 7th CPC w.e.f. 01.01.2016 with interest @ 9% per annum till actual date of payment. Direction is also sought for making applicable the Payment of Gratuity (Amendment) Act, 2009 ('Gratuity Act') to Respondent No.1/University and consequential direction for release of gratuity to the Petitioners.



4. Facts to the extent necessary for disposal of this petition at this stage are that Petitioners were appointed as Lecturers in the Department of Training and Technical Education (DTTE), GNCTD between 2008-2012/13 upon fulfilling the eligibility criteria and against sanctioned vacant posts. The employments of the Petitioners were termed as contractual. Petitioners were posted in respective Colleges and Institutes under the DTTE for undertaking teaching duties. Pursuant to the recommendations of the 7th CPC, DoPT notified the CCS (Revised) Pay Rules, 2016 which were made applicable w.e.f. 01.01.2016.

5. Petitioners seek the benefit of pay revision under 7th CPC and it is urged by Ms. Chopra that it is not a matter of discretion of Respondent No.1 to grant pay revision as this is a statutory obligation as held by the Supreme Court in *Keraleeya Samajam and Another v. Pratibha Dattatray Kulkarni (Dead) Through Lrs and Others*, 2021 SCC OnLine SC 853. It is urged that all other employees including similarly placed contractual lecturers have been granted the benefit of 7th CPC and denial of the benefits to the Petitioners is arbitrary and inequitable. Placing reliance on the judgment of the Supreme Court in *State of Karnataka v. C. Lalitha*, (2006) 2 SCC 747, it is contended that service jurisprudence evolved by the Court postulates that all similarly situated persons must be treated similarly.

6. Coming on the aspect of gratuity, Ms. Chopra urges that the case of the Petitioners is squarely covered by the judgment of this Court in *Janardan Sharma v. GNCT of Delhi, Through : its Chief Secretary and Others*, 2021 SCC OnLine Del 3895. It is further submitted that in *National Bal Bhawan v. Vandana*, 2019 SCC OnLine Del 11399, even a part time employee has been held eligible for gratuity and thus, there is no justified



reason for not applying the Gratuity Act and granting benefit to the Petitioners.

7. Issue notice.

8. Mr. Shivendra Singh, learned counsel accepts notice on behalf of Respondents No.1 and 2 and Mr. Yeeshu Jain, learned Additional Standing Counsel accepts notice on behalf of Respondents No.3 and 4.

9. From a reading of the writ petition, it appears that benefits of pay revision under 7th CPC have not been granted to the Petitioners so far. There can be no doubt that grant of pay revisions under the Pay Commissions' Recommendations, wherever applicable, is not a matter of discretion of an employer as this is a statutory obligation. Petitioners also urge that save and except the Petitioners, most of the employees of Respondent No.1 including similarly placed employees have been granted the benefit of 7th CPC and there is no plausible reason to exclude them. Representations of the Petitioners are not being considered. Insofar as the grant of gratuity is concerned, from the averments in the writ petition, it appears that the Gratuity Act has not been made applicable and/or implemented by Respondent No.1 for reasons which at this stage are not forthcoming.

10. In view of the aforesaid, it would be appropriate at this stage to dispose of this writ petition with a direction to Respondents No.1 and 2 to treat this writ petition as a representation and take a decision both with respect to pay revision under 7th CPC and arrears thereof as well as payment of gratuity under the Gratuity Act. The decision shall be taken within 8 weeks from today and shall be a reasoned and speaking order. Needless to state that the decision shall be communicated to the Petitioners within one



week thereafter, enabling the Petitioners to take recourse to legal remedies in case of any surviving grievance.

11. Writ petition is disposed of in the aforesaid terms making it clear that this Court has not expressed any opinion on the merits of the case.

JYOTI SINGH, J

AUGUST 08, 2024
B.S. Rohella/kks