



\$~136

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

+ **W.P.(C) 16758/2024**

GOPAL KRISHAN TANEJA

.....Petitioner

Through: Ms. Richa Kapoor, Ms. Sakshi,
Ms. Udipti Chopra and Mr. Kunal Anand,
Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Nitinja Chaudhry, SPC with
Mr. Kautilya Birat, Government Pleader and
Mr. Rahul Maurya, Advocate for Respondents
No.1 to 3/UOI.

Mr. Tushar Mahajan, Advocate for Mr. Arjun
Mitra, Advocate for Respondent No.4/IITD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

%

04.12.2024

CM APPL. 70933/2024

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

W.P.(C) 16758/2024

3. This writ petition has been filed on behalf of the Petitioner seeking the following reliefs:

“a) pass an appropriate writ / order or direction in - the nature of mandamus/certiorari thereby setting aside the impugned order dated 14.12. 2017 (annexure P-4) and 27.04.2022 (annexure P-9) downgrading of the petitioner to the post of executive engineer with effect from 12.12.2017 till 22.10. 2021 and from 28.04. 2022 till 30.06.2022, and;



b) pass an appropriate writ/order or direction in the nature of mandamus/certiorari thereby directing respondent no. 4 to give pay protection to the petitioner for the last pay drawn by the Petitioner by granting grade pay of Rs. 8700/- to the Petitioner and allowances for the service of the Petitioner with Respondent No. 4 in his capacity as Institute Engineer (acting with effect from 25.03.2013 till 30.11. 2013 and again thereafter place the Petitioner in the higher pay grade of Rs.10 ,000/- applicable for Institute Engineer with effect from 01.07.2016 as per the R&P Rules, 2016 with one increment as tabulated in Para 9 alongwith all consequential and retiral benefits, and;

c) pass an appropriate writ/order or direction in the nature of mandamus/certiorari thereby directing respondent no. 4 to grant the benefit of one notional increment to the Petitioner for one year service from 01.07.2021 to 30.06.2022 which has been wrongly withheld on the retirement of the Petitioner on 30.06. 2022 and consequently re-fix his pension in terms of order dated 15.09. 2017 passed by the Hon'ble Supreme Court in its judgment dated 11.04.2023 IN SLP (C) NO. 6185 OF 2020 (annexed as Annexure P-24) relying upon Madras High Court in W.P. (C) NO. 15732/2017 (annexed as Annexure P-23) upheld by the Hon'ble Supreme Court vide order dated 23.07.2018 in SLP No. 22283/ 2018 (annexed as Annexure P- 25) and in terms of settled law, and;

d) pass an appropriate writ/order or direction in the nature of mandamus/certiorari thereby directing respondent no. 4 to immediately release/refund to the Petitioner the wrongly deducted / withheld amount of RS.3,19,773/- (as indicated in Annexure P- 16) by arbitrarily reversing the grade pay / pay scale / financial benefits already granted under R&P Rules 2016 and thrusting MACPS upon the retired employees / retiring employees while fixing the pensionary benefits totally contrary to the Department Of Pension & Pensioners' Welfare O.M. No. 38/18/2018-P&PW (A) dated 14.08.2020 (Annexure- P-17) which specifically provides no recovery can be made from retired employees or employees who are due to retire within one year of the order of recovery and the same required to be waived and consequently re-fix and restore the pensionary benefits of the Petitioner alongwith all consequential benefits already drawn by them under R&P Rules, 2016, and;

e) pass an appropriate writ/order or direction in the nature of mandamus/certiorari thereby directing respondent no. 4 to release the amount of RS.69,262/- in terms of Annexure P- 11 not paid towards pension contribution and leave salary contribution during the period of deputation with Indira Gandhi National Open University (IGNOU) alongwith interest, and;

f) pass an appropriate writ/order or direction in the nature of mandamus/certiorari thereby directing Respondent No. 4 to release the



Honorarium Amount of Rs.3,000/- per month as decided and approved by competent authority for engaging Petitioner as officiating institute engineer with Respondent No. 5 w.e.f. 01.08.2016 till appointment of regular institute engineer with interest, which is wrongly withheld.”

4. Having first division with distinction in Diploma in Electrical Engineering from BTE, Delhi, Petitioner joined Indian Institute of Technology, Delhi ('IIT, Delhi') on 31.05.1994 as Assistant Resident Engineer (Electrical), which post was later mapped to Assistant Executive Engineer (Electrical) ['AEE (Electrical)'] in the year 1998, which is considered as entry level post in Group 'A' Service in the Engineering Stream and Petitioner thereafter worked in the said post.

5. It is averred in the writ petition that on 02.07.2006 Petitioner was promoted in the Senior Scale as AEE (Electrical) and placed in PB-3 with Grade Pay of Rs.6600/-. On 15.03.2007, Petitioner was promoted to the post of Executive Engineer but the pay scale did not increase. On 21.03.2013, Petitioner was posted as Institute Engineer in an acting capacity with effect from 25.03.2013 and directed to discharge duties of Institute Engineer in addition to his own duties. By a notification dated 06.12.2013, Board of Governors of IIT Delhi approved the officiating appointment of the Petitioner as Institute Engineer under FR 49(1) for a period of one year, which was subsequently extended till 12.12.2017.

6. It is averred that between 01.10.2005 to 29.09.2006, Petitioner was sent on deputation to IGNOU in the post of Executive Engineer and on 19.05.2016, IIT Delhi wrote to IGNOU to deposit the pension contribution of Rs.36,383/- and leave salary contribution of Rs.32,879/- for the said term but the same was not released. In terms of Recruitment & Promotion Rules,



2016, Grade Pay of Institute Engineer was enhanced to Rs.10,000/- instead of Rs.8,700/-. Petitioner was engaged as Institute Engineer with Respondent No.5 with effect from 01.08.2016 but even the honorarium payment of Rs.3,000/- per month was not released to him and he was reverted back as EE (Electrical) with effect from 13.12.2017 but without any pay protection. Numerous representations made by the Petitioner for pay protection were not given any heed to and only financial upgradation was granted under MACP in the Grade Pay of Rs.7,600/- with effect from 02.07.2016.

7. Petitioner further avers that Respondent No.4 erroneously vide communication 19.07.2019 stated that Petitioner's case was not sent for R&P Committee as he was granted MACP in the Grade Pay of Rs.7,600/- and that Petitioner was only an officiating Institute Engineer from 01.12.2013 to 17.12.2017 and there was no provision for granting combined benefits of two different scales, i.e. PB-4 with Grade Pay Rs.8,700/- and PB-3 with Grade Pay Rs.7,600/-. Petitioner was upgraded vide OM dated 22.10.2021 by Respondent No.4, however, by order dated 28.04.2022, he was once again downgraded to the post of EE(Electrical) and worked on the said post till his retirement on 30.06.2022.

8. This writ petition has been filed by the Petitioner ventilating a grievance against his downgradation to the post of EE(Electrical) from 12.12.2017 till 22.10.2021 and again from 28.04.2022 till 30.06.2022 and also for pay protection in the Grade Pay of Rs.8,700/- as well as allowances payable to an Institute Engineer. Petitioner seeks notional increment for calculation of pensionary benefits apart from a direction to Respondent No.4 to release the pension contribution and leave salary for the period he was on deputation with IGNOU, amongst other reliefs.



9. It is evident from a reading of the writ petition that multiple reliefs are sought by the Petitioner but there is no document on record which indicates the reasons for which allegedly he was downgraded and/or why the benefits claimed by him have not been paid assuming he is entitled to the same. In my view, looking at the complexity of the reliefs sought with no material to indicate the basis of the action of IIT Delhi, it would be appropriate at this stage to dispose of this writ petition with a direction to IIT Delhi to look into the grievances of the Petitioner by treating this writ petition as a representation and take a considered decision within eight weeks from today. Needless to state that a reasoned and speaking order shall be passed which will be communicated to the Petitioner within one week from the date of the decision and in case of any surviving grievance, Petitioner will be at liberty to take recourse to legal remedies.

JYOTI SINGH, J

DECEMBER 4, 2024

B.S. Rohella