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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 04.04.2024***

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W.P.(C) 8376/2015

DEVENDER MOHAN

..... Petitioner

Through: Ms. Tamali Wad, Mr. Akash
Srivastava, Advs.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Ms. Vertika Sharma, Adv. for Mr.
Anil Soni, CGSC.**CORAM:****HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****REKHA PALLI, J (ORAL)**

1. The present petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 30.06.2015 passed by the Central Administrative Tribunal in OA No. 1599/2009. Vide the impugned order, the learned Tribunal has rejected the original application preferred by the petitioner wherein he had, by seeking parity with the applicants in OA No. 2371/1998, prayed that his pay scale on the post of Scientific Assistant-Grade B be revised to Rs.2000 to 3000 w.e.f 01.01.1986. He had also sought that his pay scale on the post of Scientific/Technical Officer Grade-SB be revised to Rs.2375 to 3500 w.e.f. 01.10.1986, the date from which he was holding the said post.
2. The brief factual matrix as emerging from the record may be noted at the outset.
3. The Petitioner joined the services of Respondent No. 1/NIC on 03.04.1980 as a Computer Operator Grade-II in the pay scale of Rs. 425-700



and was on 01.01.1983 promoted to the post of Computer Operator Grade-I in the pay scale of Rs. 550-900. On 23.07.1984, the post of Computer Operator Grade-I was re-designated as 'Scientific and Technical Assistant Grade-B' in the same pay scale, i.e Rs. 550-900. He was, thereafter, promoted to the post of Scientific Officer/Engineer- SB w.e.f. 01.10.1986 and to the post of Scientific Officer/Engineer-SC w.e.f 01.01.1991 and finally, to the post of Scientific Officer/Engineer-SD w.e.f 01.01.1998.

4. While the petitioner was working on the post of 'Scientific and Technical Assistant Grade-B', the 4th CPC made its recommendations, which though accepted by the Central Government in 1989, were implemented w.e.f. 01.01.1986. It appears that after reference was made to the 4th CPC, a number of additional posts in the field of Information Technology, including the post of Data Entry Processors (EDP) and Scientific Officers, were created by the Central Government in various services across the country, including in respondent no.1. Since, these posts and cadres were newly created and were not included in the reference made to the 4th Pay Commission, the Commission recommended reorganisation of the employees trained in EDP and other related areas of work and directed that they be paid a uniform pay scale. Taking into account that these posts were not included in the specific recommendations of the 4th CPC, a committee known as Sheshagiri Committee was constituted to suggest reorganisation of the existing posts of EDP posts and other allied posts recommend uniform pay scales for them. The Sheshagiri Committee submitted its report on 11.09.1989, recommending a pay scale of Rs.2000 to 3200 for the post of Data Assistant Grade-B and a pay scale of Rs.2375 to 3500 for the post of Programmer. These recommendations were accepted by



the respondent no.1 vide OM dated 03.09.1990 with a rider that the revised pay scale in terms of the recommendations of Sheshagiri Committee would be granted w.e.f. 01.09.1990. Simultaneously, the respondent no.1 took a decision to revise the corresponding pay scales of the employees in the non-EDP cadres as well; this revision, as in the case of the EDP cadre, was made effective from 01.01.1990. Resultantly, the pay scales of the petitioner and other employees who were working as Scientific/Technical Personnel were also revised w.e.f. 01.09.1990.

5. As these revised pay scales for the EDP cadre were implemented only w.e.f. 01.09.1990, and not w.e.f. 01.08.1986, i.e the date from which the recommendations of the 4th CPC were implemented for all services across the country, some employees of respondents working in the EDP cadre, approached the Tribunal seeking implementation of the revised pay scale w.e.f 01.01.1986. These OAs, being OA No.665/1996 and OA No. 995/1997, were allowed by the learned Tribunal by directing the respondents to extend the benefits of the revised pay scale to them w.e.f 01.01.1986.

6. Since the petitioner was also aggrieved by the non-grant of the revised pay scale to him w.e.f. 01.01.1986, he approached the learned Tribunal by way of OA No. 495/1998 wherein he sought parity with the applicants in the earlier OAs, being OA No.665/1996 and OA No. 995/1997. This OA came to be rejected by the Tribunal. Being aggrieved, the petitioner approached this Court by way of W.P.(C) 3723/1998, which writ petition was dismissed on 05.02.1999. However, upon a review being preferred by him, this Court vide its order dated 17.08.2004 granted liberty to the petitioner to approach the respondents for considering his case for grant of revised pay scale w.e.f. 01.01.1986.



7. Pursuant to the liberty granted by this Court, the petitioner again approached respondents by way of a representation dated 21.09.2004, reiterating his claim for extension of the revised pay scale w.e.f. 01.01.1986 as against 01.01.1990. Upon his representation being rejected, he approached the learned Tribunal by way of OA No. 1599/2009 which OA was dismissed on 02.02.2010. Consequently, the petitioner once again approached this Court by way of W.P.(C) 5023/2010, which was allowed on 23.11.2010 by remanding the matter back to the Tribunal for reconsideration of his OA on merits. As the learned Tribunal has, vide its impugned order, again rejected the petitioner's claim, he has approached this Court by way of the present writ petition.

8. In support of the petition, the sole submission of learned counsel for the petitioner is that once the respondents had themselves, after accepting the recommendations of the Sheshagiri Committee, vide OM dated 03.09.1990 decided to revise the pay scales of even those employees who were not in the EDP cadre, there was no justification in restricting the said benefit w.e.f. 01.01.1990. She contends that when all the other Government employees, including the employees working in the EDP cadre, were granted the benefit of pay revision w.e.f. 01.01.1986, the respondent no.1 could not discriminate against its employees in the Scientific and other allied cadres, to which the petitioner belongs. She, therefore, prays that the impugned order be set aside and the petitioner's claim for grant of revised pay scale w.e.f 01.01.1986 be allowed.

9. On the other hand, Ms. Vertika Sharma, learned counsel for the respondent vehemently opposes the petition and submits that since the petitioner admittedly does not belong to the EDP cadre, he cannot claim any



benefit under the recommendations made by the Sheshagiri Committee. Her plea being that merely because the respondent no.1, by way of a policy decision, decided to revise the pay scale of all its employees, even though they were not in the EDP cadre, the petitioner cannot claim that the benefit of this revision must be granted to him from the same date as granted to the employees in the EDP cadre as per the specific recommendation of the Sheshagiri Committee. She, therefore, prays that the writ petition be dismissed.

10. Having considered the rival submissions of the parties, we may first note the aspects on which the parties are *ad idem*. The first and foremost aspect on which the parties are *ad idem* is that the petitioner did not form part of the EDP cadre. The parties are also not at variance on the aspect that revision of the pay scales of the employees in the EDP cadre did not form part of the recommendations of the 4th CPC, but were revised as a result of the recommendations made by the Sheshagiri Committee on 11.09.1989. There is also no dispute qua the fact that after the recommendations of the Sheshagiri Committee were accepted, the respondent no.1 decided to correspondingly revise the pay scales of all its employees, including the employees from the non-EDP cadres, to which the petitioner belongs. We may note that the parties are also *ad idem* that though the pay scales of the employees in the EDP cadre were initially revised w.e.f. 01.09.1990, the same were pursuant to the orders passed by the Tribunal made effective w.e.f 01.01.1986. Consequently, all employees in the EDP cadre were granted the benefit of the pay revision in terms of the recommendations of the Sheshagiri Committee w.e.f. 01.01.1986, as was the case with the beneficiaries of the recommendations made by the 4th CPC .



11. In the light of these undisputed facts, the only question which arises for consideration of this Court is as to whether the respondents, having on their own revised the pay scales of the petitioner, and other employees in the non-EDP cadres, on the same parameters as made applicable to the employees made in the EDP cadre, can be permitted to fix a different date from which the said revision would be applicable. Having given our thoughtful consideration to this question, we are of view that the respondents having on their own chosen to extend the same benefits as granted to the employees in the EDP cadres to the employees in non EDP Scientific/Allied cadres, could not have discriminated against the employees in the non EDP cadre by fixing different dates for extending the very same benefits to employees, who all form part of the same organisation. It also needs to be noted that the benefit of the pay revision granted to non EDP cadres, though claimed to be based on an independent policy decision, was contemporaneous with the benefit extended to the EDP cadre pursuant to the Sheshagiri Committee's recommendations, which in turn was a fall out of the recommendations made by the 4th CPC. Not only were the recommendations of the 4th CPC implemented w.e.f 01.01.1986, but even the benefits of the recommendations of the Sheshagiri Committee were also extended from the same date of 01.01.1986. Before us, the respondents have not been able to point out as to why when the similar benefits, as granted to employees in the EDP cadre, was being extended to those in the non- EDP cadres as well, different dates should be adopted for extending the said benefits. Except for urging that this was based on the OM dated 03.09.1990, which we find was also the basis of revising pay scales of employees in the



EDP cadre, learned counsel for the respondents has offered no other justification.

12. Upon a perusal of the impugned order, we find that the learned Tribunal instead of appreciating this aspect as to whether the employees in the non EDP cadres could be discriminated vis-a-viz the employees in the EDP cadre in the matter of fixation of the date from which the pay revision was to be made effective, has proceeded to dismiss the OA simply on the ground that the petitioner not being a part of the EDP cadre, was not entitled to seek parity with the applicants in OA No. 2375/1998 and OA No. 365/2007, who were part of the EDP cadre. In our considered view, the learned Tribunal has failed to appreciate that when both sets of employees have been granted the same pay revision and that too after the recommendations of the Sheshagiri Committee, unless there were any compelling reasons, there could be no discrimination in respect of the date of implementation of these benefits. As noted hereinabove, the respondents have not been able to give any justification for not extending the benefits of the revised pay scales to employees in the non- EDP cadre from the same date as granted to the employees in the EDP cadre.

13. For the aforesaid reasons, we are of the considered view that the impugned order is wholly unsustainable. The writ petition is, accordingly, allowed by setting aside the impugned order and allowing the OA filed by the petitioner by directing the respondents that the benefits of the pay revisions in terms of OM dated 03.09.1990 shall be made applicable to the petitioner w.e.f. 01.01.1986. Consequently, the respondents will, within three months, re-fix the pay of the petitioner in the pay scale of Rs.2000-3200 when he was promoted to the post of Scientific/Technical Officer



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w.e.f. 01.01.1986 and in the pay scale of Rs.2375-3500 w.e.f. 01.10.1986 for the post of Scientific Officer/Engineer-SB. The petitioner will, however, be entitled to arrears of actual benefits, if any, only w.e.f. three years prior to the date of filing of the OA No. 495/1998.

14. The writ petition is allowed in the aforesaid terms.

(REKHA PALLI)
JUDGE

(RAJNISH BHATNAGAR)
JUDGE

APRIL 4, 2024/al