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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5331 OF 2025

The Director General,
Indian Council of Medical Research and Anr. .. Petitioners
Vs.
Dr. A. Ramesh Kumar and Anr. .. Respondents

....
Mr. Ajay Vitthal Shinde, Advocate for the Petitioners.
....

**CORAM : A.S. CHANDURKAR &
M.M. SATHAYE, JJ**

DATE : 30TH APRIL 2025.

P.C. :

1. Heard. The challenge raised in this writ petition is to the order dated 02/01/2025 passed by the Central Administrative Tribunal in Original Application No.2164 of 2017. By the said order, the Original Application preferred by the respondent no.1 has been allowed and the petitioners have been directed to fix the pay of the respondent no.1 under Fundamental Rule-FR 22 (1) (a) (i) with effect from 24/09/2012 and pay the respondent no.1 arrears accordingly. A further direction has been issued to refund an amount of Rs.2,25,533/- that was recovered from the respondent no.1.

2. The dispute pertains to fixation of pay of respondent no.1. He was initially working on the post of Scientist in the Central Ground Water Board-CGWB. He joined the Indian Council of Medical Research, National Institute of Occupational Health-NIOH. On being selected to the post of Scientist-C by order an order dated 07/10/2013 his pay was fixed in accordance with FR 22 (1) (a) (i). According to the petitioners, the said Fundamental Rule was not applicable to the case of the respondent no.1 and his pay was directed to be re-fixed as per the audit observations. The grievance raised by the respondent no.1 was not accepted favourably. Instead an amount of Rs.2,24,533/- towards excess payment made during the period from 29/07/2016 to 12/08/2016 came to be recovered from him. Challenging this action, the respondent no.1 had preferred the aforesaid Original Application.

3. The Tribunal found that Office Memorandum dated 30/03/2010 issued by the Department of Personnel and Training was not applicable to the case of respondent no.1 as it was applicable only to those candidates working in Public Sector Undertakings, Universities, semi-Government Institutions or Autonomous Bodies. On that basis, it was held that the pay of the

respondent no.1 ought to be fixed under FR 22 (1) (a) (i) as the respondent no.1 was working on the post of Scientist with the CGWB.

4. The contentions raised before the Tribunal were re-agitated before this Court. We however find on a plain reading of the Office Memorandum dated 30/03/2010 that it is applicable only in the case of candidates working in Public Sector Undertakings, Universities, semi-Government Institutions or Autonomous Bodies and who were recommended for appointment. A finding having been recorded that the CGWB was a Government Department and not a Public Sector Undertaking or a Society or an autonomous Body, it has been rightly held that the pay fixation of the respondent no.1 would be governed by FR 22 (1) (a) (i). We do not find that there is any jurisdictional error committed by the Tribunal while granting relief to the respondent no.1. Since the amount of Rs. 2, 24, 533/- had been recovered on account of excess payment made which was found to be unsustainable, a direction to refund that amount has been issued. The prayer for grant of interest made by respondent no.1 has been rejected.

5. In that view of the matter, we are not inclined to interfere in

exercise of writ jurisdiction. The writ petition is therefore dismissed with no order as to costs. In the facts of the case, the order passed by the Tribunal shall be complied by the petitioners within a period of four weeks from today.

[M.M. SATHAYE, J.]

[A.S. CHANDURKAR, J.]