2025:DHC:1686-DB

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

Date of decision: 17.03.2025

\+ W.P.(C) 3249/2025

UNION OF INDIA & ORS. .....Petitioners

Through: Mr.Rajkumar, CGSC

versus

GOKAL CHAND KOSILA .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

O R D E R

% **17.03.2025**

CM APPL. 15287/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 3249/2025 & CM APPL. 15286/2025

2. This petition has been filed by the petitioners, challenging the Order dated 29.08.2024 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'learned Tribunal') in Original Application no.956/2017 (O.A) titled ***Gokul Chand Kosila v. Union of India & Ors***..

3. The learned Tribunal allowed the O.A. filed by the respondent herein, quashing and setting aside the Orders dated 20.08.2015 and 23.12.2015 issued by the petitioners. The learned Tribunal further directed the petitioners to restore the pay of the respondent as per the Order dated 17.12.2002, along with all consequential benefits,

including the re-fixation of the retirement benefits with arrears. Additionally, the petitioners were directed to refund the recovered amount from the respondent's gratuity with interest at the General Provident Funds rate.

4. To put it briefly, the petitioners had fixed the pay of the respondent *vide* an Order dated 17.12.2002. When the respondent was about to retire on 31.08.2015, the petitioners, by an order dated 20.08.2015, re-fixed the pay of the respondent taking away the benefit of the stepping up of the pay which was granted to him *vide* Order dated 17.12.2002. This order was passed without issuing any show-cause notice to the respondent and just before his superannuation. The respondent made a representation against the same, which was subsequently rejected by the petitioners *vide* Order dated 23.12.2015. Aggrieved of these orders, the respondent filed the above O.A. before the learned Tribunal.

5. The learned Tribunal, placing reliance on the Judgments of the Supreme Court in ***Thomas Daniel v. State of Kerala & Ors***., 2022 SCC OnLine SC 536 and ***Jagdish Prasad Singh v. State of Bihar & Ors.,*** 2024 SCC OnLine SC 1909, allowed the O.A., observing therein that the order of recovery cannot be allowed to be made by the petitioners more than ten years after the initial pay fixation.

6. The learned counsel for the petitioners submits that the learned Tribunal has erred in placing reliance on the above Judgments of the Supreme Court and failed to appreciate that the Impugned Order dated 20.08.2015 had been passed by the petitioners prior to the retirement

of the respondent. He submits that as the pay of the respondent had been fixed by an administrative error, the petitioners were entitled to correct the same.

7. We have considered the submissions made by the learned counsel for the petitioners, however, find no merit in the same.

8. In the present case, admittedly, the petitioners had fixed the pay of the respondent without any misrepresentation or fault on the part of the respondent, *vide* Order dated 17.12.2002. The said benefit was sought to be taken away just prior to the superannuation of the respondent, *vide* the Impugned Order dated 20.08.2015. The learned Tribunal has placed reliance on Rule 7.3.2 of the Civil Accounts Manual for the Head of Department (HOD) and Pay and Accounts Officer, as also the above referred Judgments to hold that the pay which has been fixed for the respondent cannot be re-fixed just before his superannuation. We do not find any error committed by the learned Tribunal in the Impugned Order.

9. The petition along with the application is accordingly dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MARCH 17, 2025
RN/DG

Click here to check corrigendum, if any