

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

% Judgment delivered on 15.05.2012

+ W.P.(C) 2858/2012

ANURAG GUPTA

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Deepali Gupta

For the Respondent No.1 :Ms. Sweety Manchanda.

For the Respondent No.2 :Mr. Vaibhav Kalra.

For the Respondent No.3 :Mr. Sheikh Faraz.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

BADAR DURREZ AHMED, J. (ORAL)

1. The petitioner had sought implementation of the revised pay scale pursuant to the recommendations of the 6th Central Pay Commission w.e.f. 01.01.2006 as against the date of 16.09.09 indicated in the office memorandum dated 22.09.2009. Since that was not given into the petitioner, he filed an original application being OA No.1566/2011 before the Central Administrative Tribunal, Principal Bench, New Delhi. The same was dismissed by the Tribunal by virtue of the impugned order dated 30.01.2012. Being aggrieved thereby, the petitioner is before us by way of this writ petition.

2. The petitioner was a contractual employee in an Indian Council of Medical Research (ICMR) sponsored project which was implemented as an ad hoc Extramural Research Project in the All India Institute of Medical Sciences. He was appointed by a memorandum dated 01.11.2007 pursuant to his application dated 05.10.2007 for the job of Scientist- II in the project titled as “Development of visual Analog scale for Smile characteristics following orthodontic treatment and its correlation with the treatment outcome”. The project of the ICMR was sanctioned for a period of two years from 15.07.2006. The initial appointment of the petitioner was for a period of three months from the date the petitioner assumed charge in the job. It was clearly stipulated that this was a contractual appointment; that no TA/any other allowance would be given for joining the duties; that he would get his consolidated pay in the pay scale of Rs.23125+HRA+NPA (Non Practicing Allowance) of initial basic pay of Rs.10,000/-; that the engagement was purely temporary and would come to an end on completion of the period of three months or on the day the project comes to an end. It is, therefore, clear that the petitioner was engaged purely on a contractual basis on an ad hoc project and for a short term. In fact, the petitioner worked in the project from November, 2007 till July, 2009 inasmuch as the initial tenure of three months was extended from time to time.

3. The learned counsel for the petitioner submitted that while the OM dated

22.09.2009, granted the benefit of revised pay scales for Research Scientists working in R & D Programmes of the Central Government Departments/Agencies, the revised pay scales were only to be effective from 16.09.2009. She submitted that the recommendation of the 6th Central Pay Commission was that the revised pay scale should become effective from 01.01.2006. Thus, according to her, there was no reason behind the OM dated 22.09.2009 prescribing a date other than 01.01.2006. Consequently, the claim of the petitioner is that the revised pay scale should have been operative w.e.f. 01.01.2006 even in the case of contractual employees working on ad hoc sponsored projects.

4. At the outset, we may point out that the Central Pay Commission merely makes recommendations to the Government and, that too, in respect of regular employees of the Government. It does not relate to employees such as the petitioner who were merely on a contractual basis on an ad hoc short term project. It is for the Government to accept the recommendations and to implement the same from the date of its choice.

5. In the present case, the petitioner, as would be evident from the impugned order passed by the Tribunal, sought parity with the regular employees of AIIMS and ICMR. Before us, the learned counsel for the petitioner sought to take a different ground and that was that she sought parity with contractual and tenure employees in various government organizations. However, she has not been able

to point out a single case of any similarly situated employees in a short term project where the benefits of revised pay scale as recommended by the 6th Central Pay Commission have been given w.e.f. 01.01.2006. The Tribunal has rightly rejected the claim of the petitioner for equal treatment with the regular staff of AIIMS/ICMR on the principle of there being no wholesome identity between the job profile of the petitioner vis-à-vis the said regular employees. Clearly, the case of the petitioner does not stand on the same footing as that of regular employees.

6. Lastly, the learned counsel for the petitioner submitted before us that in any event, the rationale of fixing the effective date as 01.01.2006 by the 6th Central Pay Commission was based on the price index at that particular time which remained the same whether it was for regular employees or for contractual employees of an ad hoc sponsored project. This is a matter of policy, which only the government can adopt. The government in its wisdom had adopted the date of 16.09.2009 for implementing the revised pay scale insofar as ad hoc contractual employees in sponsored projects are concerned. We do not see as to how we can interfere with that policy decision. In any event, we have already pointed out above, the petitioner does not stand on the same footing as the regular employees, as their case is different. As the Tribunal has found, there is nothing unreasonable in classifying the petitioner separately from the regular employees and thereby implementing the revised scales from a different date.

7. In view of the foregoing, we do not see any reason to interfere with the impugned order passed by the Tribunal.

8. The writ petition is dismissed. There shall be no order as to costs.

BADAR DURREZ AHMED, J

V.K. JAIN, J

MAY 15, 2012
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