

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:- 23.04.2019

+

W.P.(C) 2255/2019 & C.M. No. 10545/2019, C.M. Nos. 10546/2019,
18675/2019

THE CHIEF SECRETARY, GOVERNMENT OF NCT OF DELHI
& ORS

..... Petitioner

Through: Ms. Sripradha Krishnan for Mr. V.
Balaji, Advs.
Mr. Yogesh Kumar, DEO Zone XI

versus

SHRI J.D. GUPTA (RETD) & ANR

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present writ petition under Articles 226 and 227 of the Constitution of India assails an order dated 03.08.2018 passed by the Principal Bench, Central Administrative Tribunal, New Delhi ('Tribunal'), allowing O.A. No. 2943/2017 filed by the respondent. In his original application before the Tribunal, the respondent/applicant had prayed for re-fixation of his pension w.e.f. 01.01.2006 in the correct corresponding scale of PB III with a grade pay of Rs.7600/-, that was attached to the post of Principal, from which the respondent had retired.

2. The respondent, who is now an eighty-four year old man, retired as the Principal of Government Boys Senior Secondary School, Keshavpuram, Delhi on 30.09.1992. At the time of the respondent's retirement, his pension was fixed as per the recommendations of the 4th

CPC in the corresponding pay scale of Rs.3000-4500. Thereafter, when the 5th CPC came into force, the respondent's pension was fixed in accordance therewith in the corresponding pay scale of Rs.10,000-15,200. As per the recommendations of the 6th CPC, which were notified by the Government of India on 29.08.2008, the pay scale of the post of Principal from which the respondent retired, was revised w.e.f. 01.01.2006 to Rs.12,000-16,500 in PB III with a grade pay of Rs.7600. However, it transpires that vide OM dated 11.02.2009, the Department of Pension and Pensioners' Welfare clarified that pre-2006 pensioners would not be subject to the benefit of the aforesaid revision.

3. This clarificatory OM dated 11.02.2009 was challenged before the Tribunal by way of O.A. No.655/2010 and the said OM alongwith other clarificatory office memorandums was quashed by an order dated 01.11.2011 passed by a Full Bench of the Tribunal. The Full Bench, therefore, granted parity to both pre and post 2006 pensioners by directing that the pensions of all pre-2006 pensioners be re-fixed w.e.f. 01.01.2006 in accordance with the 6th CPC. This decision of the Tribunal was upheld by this Court, aggrieved whereby the petitioner preferred a SLP before the Hon'ble Supreme Court, which was ultimately dismissed on 17.03.2015. Thus, the Full Bench decision of the Tribunal to grant parity to all pre and post 2006 pensioners, attained finality. Based on the aforesaid Full Bench decision of the Tribunal, the Bengaluru and Erakulam Benches of the Central Administrative Tribunal, vide their orders dated 08.03.2013 and 31.01.2014 respectively, allowed the benefit of the revised pay to pre-2006 pensioners as well. The order dated 08.03.2013 passed by the

Bengaluru Bench was in fact upheld by the Hon'ble High Court of Karnataka and a SLP filed against the same was also similarly dismissed by the Hon'ble Supreme Court.

4. The respondent, claiming to be similarly situated to the pre-2006 pensioners, sought the benefit of the aforesaid decisions and in this regard, made a representation to the petitioners on 09.02.2015, followed by multiple reminders as also a legal notice dated 09.12.2015, but to no avail. Consequently, the respondent filed the aforesaid OA seeking *inter alia* a direction to the petitioner to re-fix his pension w.e.f. 01.01.2006 in accordance with the recommendations of the 6th CPC, i.e., in the pay scale of Rs.12,000-16,500 in PB III with a revised grade pay of Rs.7600. By way of the impugned order dated 03.08.2018, the Tribunal has allowed the respondent's aforesaid prayer and has directed the petitioner to pay the respondent's arrears of pension from 01.01.2006 alongwith interest from 17.03.2015 at the GPF rate. It is in these circumstances that the petitioner/Govt. of NCT of Delhi has filed the present petition before this Court assailing the aforesaid order dated 03.08.2018 passed by the Tribunal.

5. Ms.Sri Pradha Krishnan, learned counsel for the petitioner submits that the Tribunal, while allowing the respondent's OA, has overlooked the fact that the respondent had retired way back on 30.09.1992 and, therefore, would not be entitled to the revision of his pension pursuant to the recommendations of the 6th CPC. She submits that the O.M. dated 06.07.2017 makes it evident that the said revision is to be made applicable w.e.f 01.01.2016 and not from 01.01.2006 as

directed by the Tribunal under the impugned order and, therefore, contends that the impugned order is liable to be set aside by this Court.

6. We have considered the submissions of the learned counsel for the petitioner and perused the record, but are unable to find any infirmity in the impugned order.

7. The record reveals that despite various judicial pronouncements to the effect that pre-2006 pensioners cannot be deprived of the revision in their pension in accordance with the recommendations of the 6th CPC, the petitioners are persistently denying the extension of the said benefit to the respondent, who had superannuated as the Principal, Government Boys Senior Secondary School in 1992. The plea of the petitioner is that the revision of pension in accordance with the recommendations of the 7th CPC, as directed under the DoPT's OM dated 06.07.2017, has been duly granted to the respondent and, therefore, he is not entitled to claim any further revision in pension. This submission overlooks the fact that the respondent's grievance was that he was not being granted revision of pension w.e.f. 01.01.2006 in accordance with the recommendations of the 6th CPC. Merely because the petitioner claims to have revised his pension w.e.f. 01.01.2016 based on the recommendations of the 7th CPC cannot be a ground to deprive the respondent of benefit of revision in pension w.e.f. 01.01.2006, and that too when the issue is squarely covered by various decisions of the Tribunal which have been upheld by the Supreme Court. Once the pay scale of the post of Principal, from which the petitioner had retired, stood revised to Rs.12000-16500/- which was placed in PB-3 with a grade pay of Rs.7600/- pursuant to the

recommendations of the 6th CPC, the respondent has rightly been held by the Tribunal to be entitled to be granted pension w.e.f 01.01.2006 in accordance with the revised pay scale.

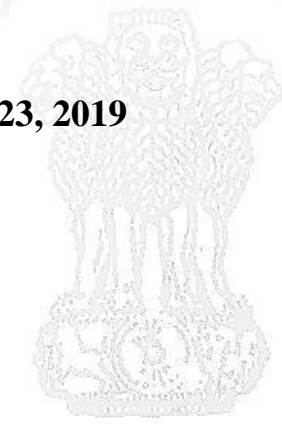
8. For the aforesaid reason, we find no infirmity in the order passed by the Tribunal. The petition being meritless is dismissed.

REKHA PALLI, J

VIPIN SANGHI, J

APRIL 23, 2019

sr



नल्पमेव जयते