
(2003) 09 AHC CK 0215
In the Allahabad High Court
Case No : C.M.W.P. No. 3691 of 2003

Amit Roy

APPELLANT

Vs

Department of Atomic Energy and Others

RESPONDENT

Date of Decision : 30-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 1 AWC 309

Hon'ble Judges : Umeshwar Pandey, J;M. Katju, J

Bench : Division Bench

Advocate : M.M. Sahai, for the Appellant; A.P. Sahi, G.K. Singh and B.N. Singh, S.C., for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed for a mandamus directing the respondents to pay the scale of Rs. 10,000-325-15,200 to the petitioner forthwith. The petitioner has also prayed for a mandamus directing the respondents to pay 10% of the pay scale which is lower amongst the two posts, against which the petitioner is working.

2. Heard learned counsel for the parties.

3. The petitioner applied and was selected by the Harish Chandra Research Institute, respondent No. 3 as Internal Audit-Cum-Administrative Officer vide appointment letter dated 15.12.1999 in the pay scale of 6,500-200-10,500 vide Annexure-2 to the petition.

4. It is stated in para 2 to the petition that the respondent No. 3 is an Aided Institution which receives grant from the Government of India, through the Department of Atomic Energy. It is established for Advance Research in Mathematics and Mathematical Physics.

5. The grievance of the petitioner is that the post of Internal Audit-Cum-

Administrative Officer has two cadres and the petitioner wants to receive the salary of the higher cadre in these two posts. The petitioner has referred to the recommendation of the Fifth Pay Commission and the office memorandum dated 12.7.1999, vide Annexures-3 and 4 to the petition.

6. The petitioner has also referred to the pay scale of the institutes at Chennai and Bhuvaneshwar where the service Rules applicable to the Central Government employees have been adopted, vide Annexures-5 and 6 to the petition. The petitioner made representations vide Annexure-9 but to no avail.

7. A counter-affidavit has been filed and we have perused the same.

8. In para 5, it is stated that there is no post of Internal Audit Officer separately created in the Institute, but in order to accommodate the work of the Institute, the sanctioned post of Administrative Officer in the pay scale of Rs. 6,500-10,500 was advertised as Internal Audit-Cum-Administrative Officer, vide Annexure-1 to the writ petition. The pay scale referred to in the advertisement is in consonance with the decision and recommendations made by Fifth Pay Commission, vide Annexure-C.A. 1.

9. In para 7, it is stated that the respondent has only one post of Administrative Officer in the Institute. The Institute is an autonomous body governed by its own Rules and Regulations, and hence the claim of the petitioner on the ground of salary paid in other institutes is totally misconceived. The petitioner accepted the appointment without any protest, and hence he cannot raise any grievance now. The posts in Chennai and Bhuvaneshwar Institutes are entirely different from the post in the respondent Institute.

10. We have discussed the question of pay scale in great detail in our judgment in Writ Petition No. 691 of 1988. *State of U.P. v. U.P. Madhyamik Shiksha Parishad Shramik Sangh and Ors.*, decided on 29.9.2003. All the relevant case laws have been discussed in this judgment.

11. For the reasons given in the aforesaid judgment, this petition is dismissed.