

(2019) 04 CAT CK 0068

In the Central Administrative Tribunal

Case No : Original Application No. 4140 Of 2018

Dr. Gaurav Gupta

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 23-04-2019

Acts Referred:

Citation : (2019) 04 CAT CK 0068

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Ajesh Luthra, Manish Kumar

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J

1. The applicant was working as Assistant Professor in Indraprastha Institute of Information Technology, Delhi since 2010. The Ministry of Electronics and Information Technology invited applications for recruitment to the post of Scientist 'D'. The applicant responded to the same and was ultimately selected and appointed. He joined the services of the respondents on 29.05.2014, and was placed in the pay band of Rs.15600-39100 with Grade Pay of Rs.7600/-. The applicant made a claim for pay protection by citing the emoluments, which he was drawing in the previous organisation. Acting on the same, the respondents passed an order dated 28.08.2014 re-fixing his pay. However, through an order dated 18.09.2018, the respondents have altered the pay structure of the applicant. It is stated that a component of the pay, which was personal to him when he was working in the previous organisation; was treated as a part of his pay wrongly; and the same was rectified. The applicant filed this O.A challenging the order dated 18.09.2018. It is stated that impugned order was passed without any notice to him and contrary to the relevant provisions of law.

2. Respondents filed counter affidavit opposing the same. It is stated that the pay protection can be only in respect of the actual pay scale and not in relation

to the personal pay. The other contentions advanced by the applicants are denied.

3. We heard Mr. Ajesh Luthra, learned counsel for applicant and Mr. Manish Kumar, learned counsel for respondents.

4. The applicant was employed in the Indraprastha Institute of Information and Technology, Delhi before he joined the service of the respondents. It appears that there is a facility of pay protection in the respondents' organisation. On a representation made by the applicant, his pay was re-fixed through an order dated 28.08.2014. In case the respondents were of the view that the fixation of his pay was incorrect, they were under an obligation to put the applicant on notice before taking proposed action. Such step was not taken and straightway, the impugned order was passed for re-fixation of the pay of the applicant. It is fairly settled that such an order cannot be passed by an authority, without following the principles of natural justice.

5. We, therefore, allow this O.A and set aside the order dated 18.09.2018. However, it shall be open to the respondents to issue notice to the applicant and pass appropriate orders, duly taking into account, the reply which he may submit to the show cause notice. There shall be no order as to costs.