

# Dev Bhaskar & Ors vs Union Of India & Ors on 26 February, 2019

**Author: Suresh Kumar Kait**

**Bench: Suresh Kumar Kait**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 4667/2015

DEV BHASKAR & ORS

Through

versus

UNION OF INDIA & ORS

Through

..... Petitioners

Mr.Sudhanshu Tomar, Adv.

..... Respondents

Mr.Pratyush Miglani, Adv. with

Ms.Smriti Varma, Adv. for UOI.

Mr.Alok Raj, Adv. with Mr.Rahul

Yadav, Adv. for R-8.

Ms.Raj Kumari, DEO, Zone-27.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% 26.02.2019 Vide the present petition, the petitioner seeks directions which are as under:

a. "Issue an appropriate writ/order/direction, thereby declaring the Pay Fixation of the petitioner after implementation of the recommendations of Sixth Central Pay Commission as unconstitutional and violative of the fundamental rights of the petitioner and more petitioners and more particularly violation of the Articles 14, 16 and 39(D) of the Constitution of India and also to direct the respondents to remove the anomaly in the Pay Fixation of the petitioners; and b. Issue directions to the respondents to refix the basic pay of the petitioners in their corresponding pay scale i.e. instead of 5500-9000 to 7450-11500 and thereafter multiplying the same with a factor of 1.86 plus the grade pay of 4600/- w.e.f. 01.01.2006; and c. Issue directions to the respondents also to grant bunching/Annual increments as applicable in the respective cases of the petitioners; and d. Issue directions to the respondents to grant all consequential benefits including arrears of pay and allowances with upto date interest @ 12% per annum."

In the present petition, all the petitioners are TGTs teachers except petitioner nos.1, 2 & 8 who are PGT.

Learned counsel for the petitioner has relied upon the decision of a Division Bench of this Court in Adhyapak Shakti Manch, Delhi vs. Government of NCT of Delhi & Anr.: 2018 SCC OnLine Del 6758 and submits that the case of the petitioner is covered by

the aforesaid decision.

A similar issue came before this Court in W.P.(C) No. 2634/2017 and the same was disposed of by a Division Bench of this Court vide order dated 23.03.2017.

Being aggrieved, the Government of NCT of Delhi challenged the same before the Hon'ble Supreme Court vide Diary No.23663/2017 and the same was disposed of vide order dated 01.09.2017 by recording as under:

"Delay condoned.

We find that there are several matters in which the aggrieved employees have been going to the Tribunal, then to the High Court and thereafter those matters are brought before this Court at the instance of the Union of India/NCT of Delhi.

Once the question, in principle, has been settled, it is only appropriate on the part of the Government of India to issue a Circular so that it will save the time of the Court and the Administrative Departments apart from avoiding unnecessary and avoidable expenditure. The present situation is that the stepping up is available only to those who have approached the Court. But since the issue has otherwise become final, we direct the Government of India to immediately look into the matter and issue appropriate orders for granting the pay- scale so that people need not unnecessarily travel either to the Tribunal or the High Court or this Court. With the above observations and directions, the special leave petitions are dismissed."

Thereafter, the same issue came up in W.P.(C) No. 4946/2016 before this Court and the same was disposed of vide order dated 06.02.2018.

Since the issue in the present petition is similar to the issue as already decided, accordingly, I hereby dispose of the present petition directing the respondents i.e. Directorate of Education to refix the pay of the petitioners appointed or promoted prior to 01.01.2016 in terms of the decision in Adhyapak Shakti Manch (supra) within a period of six weeks from the receipt of this order.

So far as petitioners' claim qua bunching of pay scales is concerned, it is deemed appropriate to permit petitioners to seek the relief in this regard after their pay is refixed, by filing a concise Representation within a period of four weeks thereafter.

If any such representation is received, respondent-Directorate of Education shall pass a speaking order thereon within six weeks from the receipt of such representation and the fate of representation be made known to petitioners within a week thereafter, so that petitioners may avail all the remedy as available in law, if need be.

With the aforesaid directions, this petition is disposed of.

SURESH KUMAR KAIT, J FEBRUARY 26, 2019/ab