

**Prem Kumar James Vs. Union of India**

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**Court :** Delhi

**Decided On :** Feb-28-2000

**Reported in :** 2000IVAD(Delhi)679; 2000(53)DRJ671

**Judge :** K. Ramamoorthy, J.

**Appeal No. :** C.W.P. No. 1127/98

**Appellant :** Prem Kumar James

**Respondent :** Union of India

**Advocate for Def. :** Mr. V.P. Singh, Sr. Adv., ; Ms. Hima Kohli and ;Mr. Manu Khare Advs.

**Advocate for Pet/Ap. :** Mr. R.P. Bansal, Sr. Adv. and;Mr. Y.D. Nagar Adv

**Judgement :**

ORDER

**K. Ramamoorthy, J.**

1. The petitioner presented the writ petition on 4.3.1998. On 6.3.1998 an order was passed by this court. There was a L.P.A. by the petitioner. That was withdrawn. Later on, the petitioner filed an application for amendment introducing necessary averments in respect of his case of mala fides. In the amended writ petition, he has come forward with the following reliefs:-

'(a) issue an appropriate writ, order or direction declaring the action of the respondent in transferring the petitioner from Delhi to Chennai as illegal, unconstitutional and violative of petitioner's fundamental rights guaranteed under Article 14, 15, & 16 of the Constitution;

(b) issue a writ of certiorari or any other writ, order or direction quashing the impugned order of transfer dated 15.12.1997 issued by the respondents;

(c) issue a writ of mandamus directing the respondents not to implement the transfer order dated 15.12.1997;

(d) issue a writ of prohibition restraining the respondent from transferring the petitioner from Delhi to Chennai which is highly mala fide and vindictive in nature;

(e) issue a writ of mandamus also directing the respondent to grant two revised pay scale and time scale promotion and promotion to the next higher post i.e. Manager, personnel & Administration.'

2. The main grievance of the petitioner was against the order of transfer which provoked him to file the writ petition. While doing so, he has also claimed the relief with reference to the revision of scales of pay and his case being considered for promotion to the next higher rank. In view of the fact that even at the stage of admission relief is restricted only to the claim of revision of pay and his consideration for promotion, the petitioner cannot seek to challenge the order of transfer made by the respondents.

3. For the purpose of considering the case of the petitioner with reference to claim of revision of pay and promotion, a few facts necessary to be noticed are as under.

On 28.9.1983 the petitioner was appointed as Personnel Officer of temporary basis and the order was issued by the Executive Director (personnel) on behalf of the Managing Director, second respondent Organisation. On 30.1.1990, an order was issued by NAFED, the second respondent revising the scale of pay. The extract filed by the petitioner as Annexure B is as under :-

Revision of pay Scales (Rs. 820-1580 & above) It has been decided to revise the scales of pay of the employees of the Federation in the scale of pay of Rs.820-1580 and above w.e.f. 02.10.1988 as follows:

Sl. Existing pay scales Revision pay scales No. Rs. Rs. 1. 820-50-1070-50-1320-2000-90-2450-110-3000 65-1580 125-37502. 1320-75-2070 3000-140-3700-160-45003. 1540-75-2290 3700-160-4500-175-53754. 1750-85-1920-100-2420 4100-160-4900-175-57755. 2070-100-2370-125-2475 4500-180-63006. 2400-100-3240 5100-200-71007. 3000-160-3800-200-4000 5900-200-7900 The amount of increase (including allowances and Interim Relief) in each scale.

Sl. Existing pay scales Total amount to be No. Rs. increased including all allowances Rs.1. 820-1580 420.002. 1320-2070 435.003. 1540-2290 450.004. 1750-2420 465.005. 2070-2745 480.006. 2400-3240 500.00 2. The increase in total emoluments is likely to vary by about (+) 10% with few exceptions while actually fixing, pay in the revised scales of pay of the individual employees.

3. The amount of Rs. 300/- per month paid as Interim Relief to the employees w.e.f. 2.10.1988 in terms of office order No. 9 dated 23.5.1989 shall be adjusted while making payment of arrears, on account of revision of pay scales. Consequent on revision of pay scales, further payment of Interim Relief will be stopped.'

4. The petitioner was transferred by order dated 4.4.1991 which reads as under:-

'Shri P.P. James, personnel officer, R.C.O.C. Raichur is hereby transferred in the same capacity to MPF-Delhi with immediate effect. He will report to the Production Manager.'

5. On 16.12.1992 another order was issued transferring the petitioner and the same is as under :-

'Shri Prem Kumar James, Personnel Officer, NPF, Delhi is hereby transferred from NPF Delhi and posted in the Industrial Units Establishment, HO, with immediate effect.'

6. On 22.2.93 the petitioner made a representation to the Managing Director, NAFED claiming dual charges allowance/special allowance from June 1993. The representation is as under :-

'Sub: Request for grant of Dual charge Allowance/Special Allowance.

I was transferred in December 1992 from NPF Delhi to work under the direct supervision and the control of Manager (IUE) and subsequently replace Retainer Shri S.V. Ganesan who was handling legal and Industrial Relation matters.

The extended period of retainership of Shri Ganesan expired on 3.6.93 but prior to that Manager (IUE) was transferred from this Section and the entire charge of the Section was given to me.

I am the only officer of SNPF posted in Head Office who, in addition to the personnel & Administration matter of all NPF Units, is looking after all Personnel & Administration matters of remaining 5 Units of the Federation.

Considering the quantum of work looked after by me which includes about 30 legal cases, about 6 departmental enquiry matters in one of which I am the Presenting Officer and the routine day to day personnel & administration work Allowance/Special Allowance from June 1993.

Thanking you and looking forward for a positive and encouraging response, I remain.'

7. On 31.1.1994 another representation was made by the petitioner to the Managing Director and the same is as under :-

'Sub: Request for grant of Dual charge Allowance/Special Allowance and Time scale promotion.

Kindly refer to my representation dated 22.9.93 on the above captioned subject response to which is still awaited. I have once again to request you that prior to June 1993 the Personnel & Administration work of Industrial Units was looked after by an officer of the rank of Manager of federation, who was assisted by a qualified Retainer on industrial relation matters. From June 1993 I am independently

looking after the routine personnel & administration work of all the Industrial Units and also all leal and industrial relation matters.

Considering the above facts in view and the quantum of work handled by me I may please be granted Dual Charge Allowance/Special Allowance w.e.f. June 1993.

That I have also completed more than 10 years' service but have not yet been considered for grant of Time Scale Promotion which has become due from November 1990 as per the rules applicable to employees of Industrial Units in Nafed.

You are once again requested to kindly pass necessary orders for grant of Dual Charge Allowance/Special Allowance from June 1993 and Time Scale promotion from November 1990.

Thanking you and looking forward for an immediate and positive response.'

8. On 20.5.1994 an office order was issued by the NAFED revising the pay scales of officers w.e.f. 2.10.1993. All other officers were given the benefit of the revision, the petitioner was not given. The second revision of pay scales made by the NAFED is filed as Annexure G by the petitioner and the same is as under:-

'The Board of Director in their meeting held on 20.5.1994 have decided to revise the existing pay scales for the employees of the Federation (excluding the Industrial Units) in the scale of pay of Rs. 2000-3750 and above w.e.f. 2.10.1993 as follows:-

| S.  | Existing pay scales    | Revised pay scales              | No.                    | (Rs.)         | (Rs.)              |               |
|-----|------------------------|---------------------------------|------------------------|---------------|--------------------|---------------|
| 1.  | 2000-90-2450-110-      | 2325-125-2950-150-3000-125-3750 | 3700-175-5100          | 2.            | 3000-140-3700-160- |               |
| 3.  | 3340-190-5620          | 160-45003.                      | 3700-160-4500-175-5375 | 4.            | 4300-200-6700      |               |
| 5.  | 4100-160-4900-175-5775 | 4700-200-7340                   | 5.                     | 4500-180-6300 | 6.                 | 5000-250-7880 |
| 7.  | 4600-190-6500          | 5100-240-8100                   | 8.                     | 5100-200-7100 | 9.                 | 5500-270-8740 |
| 10. | 5900-200-7900          | 6500-270-9740                   |                        |               |                    |               |

2. The increase in total emoluments is likely to vary by about (+) 10% with few exceptions while actually fixing, pay in the revised scales of pay of the individual employees.

3. The amount of Rs. 300/- per month paid as Interim Relief to the employees w.e.f. 2.10.1988 in terms of office order No. 9 dated 23.5.1989 shall be adjusted while making payment of arrears, on account of revision of pay scales. Consequent on revision of pay scales, further payment of Interim Relief will be stopped.'

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Considering the quantum of work looked after by me which includes about 30 legal cases, about 6 departmental enquiry matters in one of which SI am the Presenting Officer and the routine day to day personnel & administration work Allowance/Special Allowance from June 1993.

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'The Board of Director in their meeting held on 20.5.1994 have decided to revise the existing pay scales for the employees of the Federation (excluding the Industrial Units) in the scale of pay of Rs. 2000-3750 and above w.e.f. 2.10.1993 as follows:-

S. Name Present place New place of No. of posting posting  
1. Sh. NK Ahuja HO  
HO JCT Section  
2. Sh. KK Aggarwal Varanasi Patna Br. as BM  
3. Sh. VN Mishra HO  
HO (FG) Sec.  
4. Sh. HS Tomer HO RO (NZ) Delhi  
5. Sh. ES Krishnan Nagapattinam Bangalore as BM.  
6. Sh. Praveen Kr.Jain HO NPF HO  
2. The officers from S. No. 1 to 4 are already in the time scale. As such, no fixation of pay is required on their promotion as Dy. Mgr. Their date of increment shall remain unchanged.

3. All the above officers will be on probation for a period of one year with effect from they join at their new places of post ing.

4. Sh. KK Aggarwal after joining Patna as BM will relieve Sh. KC Bhowmick who is transferred to Calcutta Regional Office as Dy. Mgr. Sh. LL Garg, Dy. M. Ro(EZ) is posted to Calcutta Branch as Dy. Mgr.

5. Sh. ES Krishnan will relieve Sh. SC Nehru Roy who is trans-ferred to Madras Branch as Dy. Mgr.

6. All the officers whose postings/transfers are made as above will have to join their new places of posting within one month failing which their promotion orders will stand withdrawn.'

13. The petitioner has given the list of names of officers who were junior him and working on higher position and highest scales and the highest scales and the list is as under :-

JAMES, PERSONNEL OFFICER ON 1.11.83 AND ARE NOW WORKING ON SUPERIOR POSITIONS AND HIGHER PAY SCALE.

Sl. Name Designation & Present post RemarkNo. Pay scale and pay scale 1. A.K. Mehra Sr. Asstt. Dy. Mgr. 720-1240 1320-2070 (Revised to 3000-4500, 2.12. B.T. Moken Sr. Asstt. Dr. Mgr Further 720-1240 1320-2070 Revised to 3340-5620 w.e.f.2.10.93 3. T.K. Roy Sr. Asstt. Dy.Mgr.720-1240 1320-20704. P. Jha Sr. Asstt. Dy.Mgr.720-1240 1320-20705. S.K. Sharma P.A. Dy.Mgr.720-1240 1320-20706. S.C. Mehru Sr. Asstt. Dy.Mgr.Roy 720-1240 1320-20707. P.K. Jain Sr. Asstt. Dy.Mgr.720-1240 1320-20708. V. Radha P.A. Dy.Mgr.720-1240 1320-20709. Mrs. Urmil P.A. Dy.Mgr.Aneja 720-1240 1320-207010. L.K. Garg P.A. Dy.Mgr. 720-1240 1320-207011. Mrs. Vijay P.A. Dy.Mgr.Chandra 720-1240 1320-207012. K.S. Dhellon 10 MC Dy.Mgr.720-1240 1320-207013. N.K. Ahuja P.A. Dy.Mgr.720-1240 1320-207014. K.K. Aggarwal Sr. Asstt. Dy.Mgr.720-1240 1320-207015. V.V. Mishra Sr. Asstt. Dy.Mgr.565-1040 1320-207016. H.S. Tomar Sr. Asstt. Dy.Mgr.565-1040 1320-207017. S.S. Kaushik Sr. Asstt. Dy.Mgr.565-1040 1320-207018. Mrs.Chanot- P.A. Dy.Mgr.rika Nair 565-1040 1320-207019. Parveen Kr. Sr. Asstt. Dy.Mgr.Jain 565-1040 1320-207020. S.C. Midha Accountant Accounts Officer720-1240 1320-207021. S. Krishna Accountant Accounts Officer Muthy 720-1240 1320-2070 22. R.K. Sood Accountant Accounts Officer720-1240 1320-207023. S.K. Bhata- Accountant Accounts Officercharya 720-1240 1320-207024. A.K. Das Accountant Accounts OfficerGupta 720-1240 1320-207025. S.K. Hejela Accountant Accounts Officer720-1240 1320-207026. D. Gopala- Accountant Accounts OfficerKrishan 720-1240 1320-207027. A.S.Kulkarni Accountant Accounts Officer720-1240 1320-207028. V.B. Arya Accountant Accounts Officer720-1240 1320-207029. R.N. Gupta Accountant Accounts Officer 720-1240 1320-207030. Peter D. Accountant Accounts OfficerSauza 720-1240 1320-207031. M.S. Syounary Accountant Accounts Officer720-1240 1320-207032. D.K. Gulati Steno P.S. to Chairman post565-1040 equalient to Dy. Mgr. scale, 1320-2070 Pay scale of 820-1580 Revised 2000-3250 w.e.f. 2.10.88Pay scale 2000-3250 2325-5100 2.10.93Pay scale 1320-2070 3000-4500 2.10.883000-4500 3340-5620 2.10.93 But Pay Scale of Personnel Officer only has not been revised after 1.7.84.'

14. On 16.2.1996 the petitioner made a representation to the Managing Director and the same is as under :-

This is to invite your kind and immediate attention to my representation dated Sept. 23, 1993, Jan. 31, 1994 and June 2, 1995 to which I have not received any response till date. This long silence is causing me great agony.

That in addition to the submissions already made in my representation dated June 2, 1995 (copy enclosed) I wish to bring out the following points for your kind consideration and its immediate redressal :-

1. That I was appointed as personnel officer in the pay scale of Rs. 700-1300 w.e.f. 1.11.1993 and posted at Nafed Processed Foods, Delhi which was revised to Rs. 820-1580 w.e.f. 1.7.1984 at par with the scale of Assistant Manager in the Federation.

2. That in July, 1987 I was transferred to Head Office in the Establishment section of Industrial Units to work with the officers and staff of the Federation. The staff of the federation working under me at that time and at a lower post at that very point of time (1987) were drawing less salary than me whereas the same staff who at present are working and also reporting to me and are in a lower rank in designation than me are drawing more remunerations which is against the principle of natural justice and is contrary to the well settled principle that the senior cannot get less salary than the junior. If the junior getting more salary than the senior then it will be disparity and as such junior is entitled to get atleast the pay at par with members of services on the principle of 'Equal pay for Equal Work' this principle has been laid down in the case of Shri Spattar Singh & Others v. State of Haryana reported in 1986 (6) SLR 41. These views have been supported in another judgment by the Central Administrative Tribunal (Jabalpur bench) in the case of AB Lal v. Union of India, reported in 1989 (6) SLR 359. In this judgment the Tribunal has stated as under :

'Fixation of \_\_\_\_\_ junior person drawing more salary than the senior \_\_\_\_ not entitled to draw more pay than the senior in the un revised scale as well as revised scales \_\_\_\_ senior entitled to get the pay fixed at a higher rate from the date junior started

getting higher pay'.

Thus there is great anomaly in the salary drawn by me and the junior working under me and the same is also harassment and mental torture and is also not justified from any angle that while working on a senior post and controlling the junior officials is being paid less salary than the juniors, the same is even otherwise a humiliation when I am performing the duties as a senior officer and controlling the junior officials.

3. That it is not justified to treat me at par with the officers of Nafed Processed Foods when I am also looking after the work of other units and my place of postings have been various such as Lawrence Road, Head Office, RCOC, HO etc. and I have been working with staff and officers of different units and federation and following the same working schedule.

4. That it is needless to mention that my request for placing me in the appropriate time scale and granting the revision in the pay scale has fallen on deaf ears and has not invoke any response from the management which is causing great frustration to me and I find no justification or reason why the management is not granting me the reliefs for which I am overdue.

May I, therefore, once again appeal to you kindly grant me due reliefs within a fortnight.

Thanking you.'

15. He sent a reminder on 25.7.1996. On 28.8.1996 the petitioner mentioning all the facts sought voluntary retirement. The same is as under :-

'Vide an appeal dated 25.7.1996 a request was made to your honour to use your good offices in getting a response to my representations if not justice so that I may be in a position to seek redressal from other appropriate forums, as the various representations addressed to The Managing Director has not been responded for the last three years. More than a month has passed and no reply has also been received from your goodself and to seek justice from other forums requires lot of money and resources, as the justice in this country is very expensive and lengthy

and I am not having any money and resources to persue the same in different forum against Nafed who can afford to drain out Rs.30,000/- p.m. by posting 5 employees under me without any work just to agonise and torture me. I, therefore, lastly approach your most benevolent and righteous self to have me relieved from Nafed at the earliest because I have been victim of religious discrimination and subjected to numerous tortures and humiliation during my service of more than 12 years, some of which are as under :-

(1) That I was transferred from H.O. in July, 89 to Raichur where there was no work for me and not even a sitting space was provided to me for more than 6 months.

(2) That in April, 91, I was transferred from Raichur to NPF, Delhi where as a Personnel Officer I was asked to look after the work of Finished Goods, store and purchases.

(3) That in Dec. 92 I was transferred from NPF, Delhi to HO where from June, 93 till June, 95 I was independently looking after the Establishment work of All Industrial Units of Federation which earlier use to be looked after by an Officer at the level of Manager of the Federation without any compensation/promotion or special.

(4) That in June, 95 by an order sh. B.S. Premi, ED, ad hoc directed me to report to Sh. P.K. Jain who was promoted as Dy. Manager in June, 95 itself on the basis of his 4 years performance in NPF only who during 1989 was working in the IU Est. Section as Assistant where I was working as Personnel Officer.

(5) That in July, 95 at the instance of Sh. B.S. Premi I was shifted to Lawrence Road Complex and was asked to sit in the TRACTOR REPAIR WORKSHOP, however, after the intervention of the then MD a seat was provided at the first floor by Sh. Premi outside his office on 21.8.95 but by an order dated 29.8.95 shri Premi withdrew the work of units under him including that of Nafed processed Foods, Delhi.

(6) That vide order dated 21.11.95 issued by Sh. BP. Singh the then GM (P&A;) I was shifted from Lawrence Road to HO and in the same order it was indicated that the orders for location of my functional duties will be issued by consultant (BLN) and ED(IU). However, consultant (BLN) issued orders on 23.11.95 but no such orders has not been issued by Sh. B.S. Premi, ED(IU) till date.

(7) That the staff working/worked under me have been given two revisions in the pay scales and two/three promotions and are lower in rank than me but are drawing more remunerations than me which is against the principles of natural justice and is contrary to the well settled principles that the senior can not get less salary than the junior.

(8) That I continue to be in the same position, on which I was appointed in Nov., 1983 and also my pay scale has remained unrevised whereas two revisions have been given to staff working/worked under me. Mine is a single case in entire Nafed.

inspire of all these tortures and humiliation I have never shirked the responsibilities assigned to me to the extent of angering by my own life for the cause of management and putting in utmost and sincere efforts which have never been recognised or rewarded few are as under :-

(a) That in Oct., 1990 the Chief Judicial Magistrate, Raichur issued nonbailable warrants against Sh. VB Mahajan, The Then AMD who was the occupier of the unit and Sh. US Jaggi who was the Manager under the Factories Act, 1948 for in a criminal suit filed by the Govt. of Karnataka for negligence on account of which a workman died in the premisses of ROC and at the instances of Sh. VB Mahajan I was stationed at Bangalore for 35 days to peruse the application of withdrawing of criminal case with the Govt. of Karnataka. The matter was dealt by me right from the stage of preparing an application for withdrawing filing an order of the

Govt. in the Court of Judicial Magistrate independently.

b) That in Feb, 95 when the decision of the Board to close NPF, Vellore was to be implemented I was the only officer deputed from Delhi to implement the same,

where I was subjected to gherao and threat to life for more than 7 hours which was reported in The Hindu (Southern Region) Feb. 5, 1995 and Deena Malar dated 4.5.95 and after my return on completing the task assigned, not even a single letter of appreciation was issued as against this was Sh. B.S. Premi, ED (Ad hoc) was sent to Madras after the closure for settlement of account with the owner society the question of his visiting the office of the owner society at Vellore was unthinkable, he never even came out on the streets of Madras and remained inside the closed and locked guest house of Nafed at Ramanathan street throughout his stay. He used to give instructions to Area Manager over phone or ask him to visit the guest house.

In view of the few instances of injustice and discrimination recorded above I, most humbly request you to kindly relieve me by giving me all legitimate benefits of V.R.S. (Including the benefits withheld and denied) at the time of my relieving itself so that I am not subjected to further humiliation and torture for getting the dues after my relieving.

Thanking you.'

16. On 25.9.1996 the Board of Directors met to consider the Manpower Budget for Nafed processed Foods, Nafed Cold Storage and Nafed Warehousing and Processing Industries, Vashi for the year 1996-97. The details are found on page 295. On 30.1.1997 the petitioner wrote to the Chairman, National Commission for Minorities expressing his grievance and requesting the Minority Commission to intervene in the matter. The Chairman of the Minority Commission wrote to the Chairman, NAFED. On 23.4.1997 the chairman of the respondent organisation wrote to the Chairman, National Commission for Minorities the following:-

'Kindly refer to your letter dated 31.1.97 Along with the representation of Shri P.K. James, Personnel Officer, NAFED Processed Foods, Delhi. An interim reply was sent to your goodself on 11.2.97.

2. My office has thoroughly examined the representation of Shri James who is working on the strength of NAFED Processed Foods Industrial Unit of NAFED. The employees of this Unit are governed by a separate set of rules/service

conditions applicable to its employees. The case of Shri James was considered by the Departmental Promotion committee in the past but was not approved. The case of Shri James is not a solitary one as there are other such employees awaiting promotion according to Rules. However, I assure you, Sir, that the case of Shri James Along with other eligible employees for promotion will be considered by the D.P.C. in due course.'

17. On 21.5.1997 the Chairman, National Commission for Minorities wrote to the petitioner whether he was satisfied with the reply of the Chairman, NAFED. On 9.6.1997 the petitioner made a representation to the Chairman, second respondent Organisation and the same is as under :-

'Most angushly, I wish to invite your kind and immediate attention towards your letter dt. April 23, 1997 addressed to the Rev. Dr. Habil Jamses Massey, Member of National Commission for Minorities. It is very amazing that your efficient and learned officers who examined my representations have not only misled you but have made you to send a communication to a Government of India agency which is false and factually incorrect.

It has been stated by you that I am on the strength of Nafed Processed Foods, an Industrial Unit of Nafed and governed by a separate set of Rules and Service Conditions. To the best of my knowledge and information there is no separate set of Rules and Service Conditions approved by the Board of Directors, applicable to my class of officers who are arbitrarily treated on the strength of a particular unit but made to work for all other units and also transferred to other units and HO as and when recommended by these officers. Kindly issue instructions to the concerned officer to make available a copy of separate set of Rules and Service Conditions approved by the appropriate authority which have been applied by these officers only in my case.

It has also been stated by you in your above referred letter that my case was considered by the Departmental Promotion Committee in the past but not approved, as far as I remember my case was never put up to any Departmental Promotion Committee for consideration by officers of Nafed. In case it is so I may kindly be provided with a copy of the relevant reference. It is also incorrect that

mine is not a solitary case. I shall be grateful if a list of officers from entire Nafed (including so called Industrial Units) is provided to me who are working in the same pay scale for the last 13 years without any revision of pay scale and grant of Time Scale Promotion.

I have to further state that none of the issues raised in my representation dated Aug. 28, 1996 have been addressed by you in your letter dated April 23, 1997.

You are, therefore, once again requested to kindly personally review the first paragraph of my representation dated Aug. 28, 1996 and accept my humble submission made in the last paragraph.

Thanking you.'

18. On 19.6.1997 the petitioner wrote to the Minority Commission the following :-

'This is to acknowledge with thanks receipt of letter No. 3(2)RJM/NCM/97/206 from your office Along with a copy of the reply received from Chairman Nafed. The Chairman Nafed has been misled by the officers of Nafed to furnish you false and incorrect information whereas the facts of the same are as under :-

1. That it is false to state that I am working on the strength of Nafed Processed Food an Industrial Unit of Nafed because I was appointed as Personnel Officer by the Managing Director, National Agricultural Co-operative Marketing Federation of India Ltd., and directed to join duty at Nafed Processed Food, Delhi. In the letter of appointment it has nowhere been stated that I will be treated on the strength of Nafed Processed Food. After working in Nafed Processed Food for less than five years. I was transferred to Head office in July 87. From Head Office I was transferred to Raichur (Karnataka) in July 89. From Raichur I was again transferred to Nafed Processed Food, Delhi in April 91. Now from December 92, I am working in Head Office. Copies of the appointment order and transfer orders are enclosed herewith and marked as Annexure R-I. therefore to treat me on the strength of one unit which has no separate legal entity is not only unjustified but is a clear case of discrimination.

2. That it is also wrong to state that employees of Nafed Processed Food are governed by a separate set of Rules/Service Conditions. There are no separate set of Rules/Service condition for the officers who are made to work in different units and Head Office. The Chairman has been misguided to refer to Staff Regulations applicable to a WORKMAN of Nafed Processed Food and Nafed Cold Storage. A copy the Staff Regulations, which is nothing but a copy of the modal standing orders under the Industrial Employment Standing Orders Act, 1946, and has not been certified by the Certifying Officer of the Appropriate Government is enclosed herewith and marked as Anneure R-II. These regulations are not applicable to my class of officers.

3. Thus it has also been stated by the Chairman Nafed that my case was considered by the Departmental Promotion Committee in the past but was not approved without any supportive evidence. As a matter of fact my case was never put up to any Departmental Promotion Committee by officers of Nafed whereas the officers to whom I have been reporting have been granted 2/3 promotions in the last 10 years. Similarly the staff working under me have also been given 2/3 promotions and their pay scales have also been revised, twice. And I continue to work in the same pay scale without any revision or time scale promotion which is a clear case of religious discrimination.

4. That it has been wrongly stated by the Chairman Nafed that mine is not a solitary case and there are other such employees awaiting promotion according to rules without furnishing list of such employees who are working in the same pay scale without any revision for the last 13 years I am in the pay scale of Rs. 820-1580 with effect from 1.7.84 without any revision or time scale promotion. Whereas all other officers of Nafed including Industrial Units have been granted 2 revisions in their pay scales, and officers of Nafed have been granted 2/3 regular promotions as well in the last 13 years.

5. That the Chairman Nafed has not addressed any of the issues raised in my representation Dated 28 August, 96 which was forwarded by your goodself to him, on 31 January, 1997 in his final reply of April, 23, 1996.

6. That I suspect that Shri B.S. Premi Executive Director is the person, behind aggravating Religious Discrimination against me. After his ad hoc promotion as Executive Director (IU) in July, 94, he recommended my case for time scale promotion in October 94, on the file, a copy of the relevant note is enclosed here with an marked as Annexure R - III. In the meantime at his behest employees of Nafed Processed Food, Delhi arranged a JAGRAN in the premises of Nafed Processed Food, Delhi on 1.1.95 and I was asked by Shri B.S. Premi to collect donations for the JAGRAN and also associate myself for the arrangements for the same, which I declined and thereafter his wrath bestowed upon me from all sides such as:-

a) Shri B.S. Premi by an order Dated 22.6.95 directed me to report to one Shri P.K. Jain who was promoted as Deputy Manager in June 95 itself on the basis of his four years working in Nafed Processed Food only, who during 1989 was working as assistant in Industrial Unit section in Head Office where I was working as Personnel Officer.

b) At the instance of Shri B.S. Premi I was shifted to Lawrence Road Complex in July 95 and was asked to sit in the Tractor Repair Workshop by Shri B.S. Premi, however after the intervention of the then Managing Director. Mrs. Sarita, J. Dass I.A.S. a seat was provided at the first floor by Shri B.S. Premi outside his office where his attendants use to sit on 21.8.95, but by an order dated 29.8.95 Shri Premi withdrew the work of units under him including that of Nafed Processed Food, Delhi on the strength of which I am arbitrarily treated by the Nafed Management. Copies of the orders issued be Shri B.S. Premi are enclosed herewith for your ready reference and marked as Annexure R-IV.

From the facts stated above it is established beyond any doubt that I am a victim of Religious Discrimination in Nafed. You are, therefore, requested to kindly use your good offices in getting my legitimate reliefs and stooping victimisation and Discrimination immediately.'

19. On 20.11.1997 a Member of the National Commission of Minority wrote to the Chairman, NAFED requesting the later to consider the case of the petitioner. On 25.6.1997 the National Commission wrote to the Chairman, NAFED to look into

the case of the petitioner. On 15.12.1997 the petitioner was transferred to Chennai. On 16.12.1997 and 31.12.1997 the petitioner made representations. The petitioner at page 297 of the paper book had placed on record as Ex. A-1 Proposed Manpower Budget of Nafed Cold Storage. On page 299 also he has placed on record the same details about Nafed Warehousing and Processing Industries. On page 301 the petitioner has placed on record the total sanction of Manpower in NPF. On page 304 the petitioner has placed on record the proposed Manpower Budget of NPF for the year 1996-97. On page 306 the petitioner has placed on record proposed Manpower Budget for NPF Madras sales for the year 1996-97. On page 307 the petitioner has placed on record the proposed Manpower Budget in respect of NPF Jabli for the year 1996-97. He has placed on record the Memorandum issued to him on 17.7.1998 with which we are not concerned at the stage.

20. In paragraph 26 of the amended writ petition, the petitioner has stated:-

'The Chairman of NAFED informed the member of National Minorities Commissioner vide his letter No. HO/ADI/2-5/96-97/1692 dated 23/29.4.1997 that petitioner is on the strength of the NAFED Processed Foods (NPF) and is governed by a separate set of rules and service conditions.

Copy of letter dated 23/29.4.1997 is enclosed herewith and marked as Annexure-O.'

21. In reply to this, at page 337 of the paper book, in the amended counter affidavit it is stated:-

'That contents of para 26 of the writ petition are a matter of record and need no reply from the answering respondents.'

22. Rules have been placed on record, as submitted by the petitioner, governing the persons working in NAFED process Food (NPF) in the light of the facts mentioned by the petitioner with reference to the strength to the staff, the respondent NAFED is bound to consider the case of the petitioner and from paragraph 26 it is clear that the respondent had not considered the case of the

petitioner in the light of the facts mentioned by him. In the counter affidavit, it is also stated:-

'It is further submitted that recently the Board of Directors of the NAFED in their meeting held on 28.12.1997 have approved the revision of pay scales of employees of NPF and fixed their pay scales at par with the NAFED cold Storage, (another Industrial Unit of NAFED). The necessary administrative orders for implementing the said decision have also been issued vide Office Order No. 02 dated 28.5.1998 effective from 28.12.1997. with the issuance of the said orders, the petitioner Along with other employees of NPF, automatically get the benefits of enhanced pay scales with effect from 28.12.1997. Insofar as the time scale/promotion to the next higher post is concerned, it is submitted that the cases of petitioner along with other employees of the NPF was considered last by the Departmental Promotion Committee held on 18.1.1991, 30.1.1991 and 25.2.1991. At that time the case of the petitioner was not found suitable for grant of time scale promotions on merits. No DPC thereafter has taken place.'

23. The respondent NAFED had referred to the judgment of the Supreme Court and it has been produces as Annexure R-1. It has not been mentioned as to how that would be relevant in considering the case of the petitioner. As a public authority, the respondent NAFED is bound to consider the case of its officers in accordance with law.

24. The point is taken by the NAFED that it is not amenable to writ jurisdiction as it is not an authority within the meaning of Article 12 of the Constitution of India. In NAFED Processed Foods Employees Union & Ors. v. Union of India & ors., in C.W.6239/98 decided on 19.7.1999, the Hon'ble Mr. Justice Mukul Mudgal took the view that NAFED is amenable to the jurisdiction. I respectfully agree with the view taken by the learned Judge.

25. In view of this, the respondents are directed to consider the case of the petitioner for revision of scales of pay and for promotion to the higher rank in accordance with law, in the light of the facts placed on record and that such a process shall be completed on or before 30.6.2000.

26. The writ petition is ordered to the above extent. There shall be no order as to costs.

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