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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1196/2001

This the 22/4 day of April, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. All India Census Employees Association,
Office of Director of Census Operations,
Unit 9, Janpath,
Bhubaneshwar-751022.
2. O.P.Sharma, President,
The All India Census Employees Association,
Office of Director of Census Operations,
M.P.Janganana Bhawan,
Jail Road, Arera Hills,
Bhopal-462002.
3. M.M.Samal, Secretary General,
The All India Census Employees Association,
Office of Director of Census Operations,
Unit 9, Janpath,
Bhubaneswar-751022.
4. S.K.Sen (Computer),
Now re-designated as Senior Compiler,
The All India Census Employees Association,
Office of Director of Census Operations,
M.P.Janganana Bhawan,
Jail Road, Arera Hills,
Bhopal-462002.

... Applicants

(By Shri Shyam Babu, Advocate)

-versus-

1. Union of India
through Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. The Registrar General of India,
2/A, Man Singh Road,
New Delhi-110001.
3. Union of India
through Secretary,
Ministry of Finance,
New Delhi.

... Respondents

(By Shri R.N.Singh, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicants had filed OA No.170/1988 seeking grant
of same scale of pay of Rs.380-640 for Computers working

in the office of Registrar General of India (RGI) as granted to Investigators of National Sample Survey Organisation (NSSO) and the UDCs of the National Tuberculosis Institute (NTI), Bangalore. That OA was disposed of on 1.6.1993 with the following directions :

"(1) The respondents shall on the basis of the minutes of additional office council held on 2.7.1985 recording disagreement in regard to according of proper scale of pay to the Computers on par with the Investigators place the matter immediately before the departmental council of the Department of Personnel & Training. Action to place the matter before the departmental council shall be taken within a period of two months from the date of receipt of this order.

(2) The departmental council shall complete the negotiations and take a final decision in the matter within a period of four months from the date the matter is placed before the council.

(3) In the event of the departmental council also recording disagreement, it shall take immediate steps for placing the matter for compulsory arbitration before the Board of Arbitration which shall be constituted expeditiously by the Government. In the event the matter being placed for compulsory arbitration, the Board of Arbitration shall dispose of the matter with utmost expedition.

(4) Before concluding, we would like to say that the petitioners' grievance, if any, in regard to the subsequent revision on par with the Investigators and UDCs, may also be considered."

In pursuance of the above orders of the Tribunal, an award was given by the Board of Arbitrators on 18.10.1999/ as follows :

" The pay scale of the Computers of the Office of the Registrar General of India be revised so as to bring the same at par with the pay scale of Investigators of National Sample Survey Organisation and National Tuberculosis Institute, Bangalore.

This Award shall be effective from the
1st day of May, 1982."

Through this OA, applicants seek implementation of the aforesated arbitration award.

2. The learned counsel of applicants Shri Shyam Babu stated that as per Government instructions if for any recorded reasons, the Central Government is of the opinion that any/all decisions or recommendations of the Board of Arbitration should be modified on the grounds of social justice or national economy, it will lay before the Parliament the modification along with reasons therefor within six months. The Parliament may make such modification in the recommendations as it may deem fit. According to him, as the award was made on 18.10.1999, a period of six months expired in April, 2000 and despite representations of applicants, no action has been taken in terms of the arbitration award which has become binding on both sides, the maximum period of six months having expired in April, 2000. Learned counsel relied on P.Nageswaran & Ors. v. Union of India & Anr., (1993) 24 ATC 168 wherein it was held that as per the scheme of Joint Consultative Machinery (JCM) and Compulsory Arbitration for Central Government employees, Government has no power to modify the recommendations and after the expiry of six months from the date of award if the Government does not take steps to place any proposal for modification ^{before the Parliament} during that period, the award comes into force. It was further held as follows :

"10. No doubt, as per the scheme, the award is subject to the overridingg authority

of Parliament, and there is no time-limit prescribed for Parliament. But for the Resolution of Parliament to have force, it should take place within the framework of the scheme. If the matter has been placed before Parliament before the expiry of six months, there was room for Parliament to decide in a sovereign manner on the matter. But in this case, the award has become enforceable immediately on the expiry of six months, and thereafter there was no role for Parliament as per the scheme. The matter has been sealed and the situation has crystalized. Thereafter any subsequent resolution of Parliament de hors the scheme would be of no avail."

3. On the other hand, the learned counsel of respondents Shri R.N.Singh, contended that although in terms of Government memoranda dated 10.6.1988 and 20.2.1989 (Annexure R-1 colly.), decision on arbitration award should be taken by Government within six months but the aforesaid period of six months is not mandatory in nature. He further stated that it had been observed by the Chairman of the Committee on Petitions (Tenth Lok Sabha) that "while no mandatory time limit may be prescribed, it would be reasonable to expect that a decision on the award should not be inordinately delayed". Learned counsel stated that the Government undertook the exercise of calculating financial implications. However, it has not been able to take a final decision regarding the award within the time stipulated under the instructions of DOP&T. He placed reliance on Union of India & Ors. v. Scientific Workers Association (Regd.), Kanpur & Ors., 1994 Supp (2) SCC 159, in which it was held that Government of India should ordinarily follow the time schedule prescribed in the related memoranda regarding the JCM scheme.

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4. Even if the contention of respondents is accepted that the time schedule prescribed for placing the award before Parliament is not mandatory and should ordinarily be placed within six months of pronouncement of the award, the question is what effective steps had been taken by the Government for compliance of the instructions on the subject and what the extraordinary circumstances were for non-compliance of the instructions within the stipulated period. In the case of **Scientific Workers** (supra) the proposal for modification of the award had been placed before Parliament and the two Houses of Parliament passed Resolutions for modifying the award. In the present case although the award was pronounced on 18.10.1999, the same was not put up before Parliament within the stipulated period of six months. The facts of the present case are, therefore, distinguishable from the aforesated case. Even if it is accepted that ordinarily the proposal for modification etc. should be laid before Parliament within six months of pronouncement of the award, this period cannot be stretched beyond reasonable limits. In our considered view, such reasonable limits may at the most extend to another three months after the proposal for modification etc. has been laid before Parliament. In the instant case, respondents have not taken steps to modify/reject the award dated 18.10.1999 whthin the stipulated period of six months and even within the extended period of another three months, as stated above. The ratio of **P.Nageswaran** (supra) is squarely applicable to the present case and as the case has not been placed before Parliament at all within the framework of the scheme,

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there is no room left for Parliament to act in a sovereign manner on the matter, and as such, in our view, the award has become enforceable immediately on expiry of six months from 18.10.1999, i.e., the date of pronouncement of the award by the Board of Arbitrators.

5. Having regard to the facts and circumstances of the case as discussed above, we direct the respondents to implement the award dated 18.10.1999 within a period of three months from the date of service of these orders. They shall also release all arrears of pay and allowances along with interest at the rate of 10 per cent per annum from the expiry of six months from 18.10.1999 up to 10.5.2001 as interim orders not to modify/reject the award were passed on 11.5.2001 by this Tribunal.

6. The OA is disposed of in the above terms. No costs.

S. Raju
(Shanker Raju)
Member (J)

V. K. Majotra
(V. K. Majotra)
Member (A)

/as/