

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 154/2001
M.A. No. 118/2001

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New Delhi this the 10th day of August 2001

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

1. Delhi Flood Control Mazdoor Union,
34-D Sector 4 Raja Bazar,
DIZ Area New Delhi.
through its General Secretary Satish Kumar.
2. Udaibir Singh
S/o Shri Soran Singh Yadav
3. Jiya Lal S/O Shri Net Ram Yadav.
4. Narendar Singh S/O Prem Singh
5. Sh. Anil Kumar Sharma S/o Sh. Chet Ram Sharma
6. Shiv Murat Yadav, S/o Shri Hardev Singh Yadav.
7. Jai Kishan S/o Sh. Vishnu Dutt
8. Mukesh Sharma S/o Shri R V Sharma.
9. Mani Ram Sharma S/o Sh. Thakur Das Sharma
10. Ram Ashre S/o Sh. Kalla Ram
11. Bhagwan Singh S/o Sh. Bhim Singh
12. Itwari Lal S/o Shri Ram Swaroop
13. Billu Singh S/o Sh. Chidha Ram
14. Prahalad Ram S/o Sh. Sultan Singh
15. Ram Shankar S/o Sh. Satya Ram Yadav
16. Munsî Ram S/o Sh. Tika Ram
17. Kashi Ram S/o Sh. Ram Saran
18. Jeet Ram S/o Sh. Guru Dayal
19. I K Ram S/o Sh. Niyadar Singh
20. Raje Ram S/o Sh. Lakhpat Singh
21. Kundan Lal S/o Sh. Banshi Lal
22. Ram Deen S/o Sh. Ram Naresh
23. Harbans Singh S/o Sh. Pransukh
24. Banwari lal S/o Sh. Ratnu
25. Lakhan Singh S/o Sh. Tota Ram

26. Shyam Singh Yadav S/o Sh. Tek Chand Yadav
27. Gopi Ram S/o Sh. Ghashi Ram
28. Phool Singh S/o Sh. Jai Narain.
29. Sh. Mahendar Kumar S/o Sh. Girdhari Lal
30. Shanti Prasad S/o Sh. Piyare Lal
31. Ram Kumar S/o Sh. Attar Singh
32. Bali Ram S/o Sh., Mukh Ram
33. D.N. Pandey S/o Sh. R A Pandey
34. Balbinder Singh S/o Sh. Sarbat Singh
35. Ram Kishan S/o Sh. Badle

(Applicants No. 2 to 35 are C/o Delhi Flood Control Mazdoor Union (Regd.) 34-D, DIZ Area, Sector - 4, Raja Bazar, New Delhi - 110001.)

.....Applicants.

(By Ms Nilofer Qureshi proxy counsel for Sh. Naresh Kaushik learned counsel for the applicants)

Versus

1. Government of NCT Delhi
through its Development commissioner cum
Flood Secretary, 5/9 Under Hill Road, Rajpura Road,
Delhi
2. Chief Engineer (I&F),
Delhi Administration,
IVth Floor, ISBT Building,
Kashmere Gate, Delhi

.....Respondents.

(By Shri Rajinder Pandita , learned counsel)

ORDER

By Hon'ble Shri Govindan S. Tampi, Member (A)

O.A. No. 154/2001 has been filed by Delhi Flood Control Mazdoor Union, through its General Secretary and 34 Others, seeking the extension of the benefit of award dated 31.1.88, in their favour, their re-categorisation as skilled

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workers with retrospective effect from 1.1.73 and the payment of arrears, worked out from 1.4.81, with revisions w.e.f. 1.1.86 and 1.1.96 respectively.

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2. Heard Ms Nilofer Qureshi, learned proxy counsel for the applicants and Sh. Rajindra Pandita, learned counsels for the respondents.

3. MA No. 118/2000 for joining allowed.

4. The applicants who are the employees of the Flood Control Wing of Irrigation and Flood Control Deptt. of the Govt. of NCT state that the benefits under the award dated 31/1/88, granted to CPWD employees are applicable to them as well as there were no independent rules and regulations for them and their service conditions are governed by those governing corresponding categories of CPWD, in terms of CPWD manuals and also in terms of ^{the} Settlement dated 6.11.86 reached between themselves and the Deptt. Notifications and regulations issued for CPWD workers are also applicable to them. Demand for re-categorisation / re-classification of work charged staff and regular classified categorised of CPWD, in terms of Minimum Wages Act, 1947 was placed before Arbitration Board, who finally decided on notional fixation of re-categorisation from 1.1.73 and payment of arrears from 1.4.81. On challenge of the award, certain modifications were ordered, but the portion regarding payment of arrears w.e.f. 1.4.81 was confirmed. Following the above, CPWD employees have been re-categorised w.e.f. 1.1.73, and have been paid arrears from 1.4.81, with revisions from time to time, as permitted. This benefit however, has not been extended to the applicants who are similarly placed and they remained to be re-classified and ^{granted} the benefit of

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arrears as granted to corresponding categories of CPWD staff. This has resulted in severe discrimination and hardship to workmen like the applicants, which calls for redressal, according to them.

5. In their rebuttal, the respondents urge that the applicants are not entitled for the reliefs claimed by them as quite a few of them were not those originally sponsored by Employment Exchange. One or two had come on compassionate appointment and some have been given promotion as work charged mate. All of them had been getting the benefit in terms of their recruitment rules and nothing further was available to them. Benefit of the award given by the Arbitration Umpire on 31.1.88 for the CPWD employees of the Govt. of India cannot be given to the Work Charged Employees of Irrigation and Flood Control Deptt. The applicants are not similarly placed as those in the CPWD, who are performing different kinds of duties and responsibilities. It was also not correct that there were independent rules and regulations in the Flood Control Deptt. Further the award cannot be made applicable to daily wage/muster roll workers. Besides, the applicants are in the unskilled category as opposed to CPWD workers who are in the skilled category. While conceding that CPWD Manual Vol. III was applicable in the case of Irrigation and Flood Control Deptt., the respondents state that the Award for CPWD, given the Arbitration Umpire cannot be extended to the latter. Respondents point out that as the applicants had been given their due benefits from time to time by the respondents, nothing further remained to be done, according to them.

6. The learned counsel appearing for both the sides forceful reiterated their respective pleas during oral

submissions. Sh. Pandita for the respondents also pointed out that it is clear from the settlement dated 6.11.86 between the employees and Flood Control Deptt. that the decision would be implemented by the management in consultation with Law Ministry and therefore the discretion lay-with the respondents to exercise. On the other hand, Ms. Qureshi argued that the said clause in the settlement related to the implementation of a decision of the Supreme Court and not to any other point including the Arbitration award under which the relief is sought by them and therefore the applicants case should merit endorsements.

7. We have carefully considered the matter. The preliminary objection raised by the respondents that the application is hit by limitation and thus not maintainable, is without any merit in view of the Hon'ble Apex Court's decision in M.R. Gupta's case [SCC 1995 (5) 628] wherein it has been held that in matters of fixation of pay, which is a continuous ^{cause} of action, plea of limitation shall not be raised to repel the claim of the applicant. On the merits it is the plea of the applicants that despite being employees of N.C.T. Delhi in absence of rules and regulations governing their service conditions, they are governed by the terms and conditions of CPWD staff of corresponding categories, and that CPWD Manual Volume III is applicable in their case. It therefore followed that being similarly placed they should also get the benefit of re-categorisation and re-classification along with the revision in scales of pay, as permitted to CPWD employees of corresponding categories. While conceding that CPWD Manual Vol III is applicable to the applicants, the respondents deny the absence of rules and regulations in respect of the applicants in their

organisation. However, they could not produce any such rule and regulation which they claimed, did exist / as obviously none existed. It is evident that CPWD provisions would apply mutatis mutandis in the case of the applicant and they are to our mind, the similarly placed and the benefits granted to one group becomes available to the other as well. Normally we would not have embarked upon the adjudication of the concept of "equal pay for equal work" as we have been precluded to do so by the Hon'ble Supreme Court by the decision in P.V. Hariharane case [SCC 1997 (3) 568]. However, in this case, admittedly, the status of the work charged employees of Flood control Wing of the Irrigation and Flood Control Deptt. of the NCT Delhi, is the same as the similarly placed employees of CPWD. The same is borne out by the terms of the settlement reached between the applicants and the respondent Deptt. On 6.11.86. Therefore we are to conclude that the benefits which have been granted to the work charged employees of CPWD by the Arbitrator Umpire on 31.1.88 cannot be held back from the applicants any longer. They have to be granted the benefit in full measure. However, as the applicants have come before us only in 2001, they would be entitled to get the benefit of arrears of revised pay and allowances only from 1.1.2000 i.e. one year prior to the date of their filing this O.A.

8. In the above view of the matter, the application succeeds and is accordingly allowed. The respondents are directed to extend to the applicants also the benefit of the award dated 31.1.1988 of the Umpire of the Arbitration fully, both in respect of their re-categorisation and revision of their pay scales with retrospective effect from 1.1.73 or from the date of their appointment whichever is later. The

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respondents shall also work out their pay and allowances notionally w.e.f. 1.4.81 with revision w. e.f. 1.1.86 and 1.1.96, as per the award but shall grant the arrears of pay and allowances at the revised rate only from 1.1.2000. This exercise shall be completed by three months from the date of receipt of a copy of this order or in any event by 15.12.2001 at the latest. No costs.

S. Raju

(Shanker Raju)
Member(J)

Patwal/

(Gopinathan S. Tampi)
Member (A)