

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

42

R.A. NO.200/2002
M.A. NO.2741/2002
in
O.A. NO.1646/1998

This the 18th day of September. 2003

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

HON'BLE SHRI KULDIP SINGH. MEMBER (J)

C.P.W.D. Karamchari Union (Read.)

... Applicants

(By Shri S.C.Luthra. Advocate)

-versus-

Union of India & Ors.

... Respondents

(By Shri K.C.D.Gandwani. Advocate)

O R D E R (ORAL)

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

This application has been made seeking review of order dated 27.2.2002 in OA No.1646/1998. The learned counsel of applicants stated that in its order dated 9.11.2000 the Tribunal in OA No.1646/1998 had observed as follows :

"4. In respondents' letter dated 10.7.98 it has been stated that Finance Ministry have asked Ministry of Health & Family Welfare to withdraw the facilities being given to these categories of employees. as the purpose for which HPCA is granted is defeated by making payment to such employees."

Thus the Tribunal had wanted to know from respondents what action had been taken by the Ministry of Health and Family Welfare on the advice of Finance Ministry. Respondents had filed an additional affidavit dated 12.1.2001 (Annexure RA-3) ^{stating that} they had not withdrawn the

h

43

facility of Hospital Patient Care Allowance (HPCA) from categories of staff categorised as non-ministerial. The learned counsel stated that this statement escaped the notice of the Tribunal and thus the OA was dismissed. The learned counsel of applicants stated that non-consideration of this fact by the Tribunal is an error apparent on record and as such, the order dated 27.2.2002 should be reviewed. In this order, the Tribunal had noted as follows while dismissing the OA :

"6. However, we note from the impugned letter dated 10.7.98 that Ministry of Finance has advised the Ministry of Health & F.W. to withdraw this facility presently being granted to categories of employees such as head clerks, assistants, typists etc., on the basis of which applicants advance their own claims. In the light of this advice the claims of applicants cannot be acceded to."

2. On the other hand, the learned counsel of respondents stated that the review application has not been made within the prescribed limitation period. The learned counsel of applicant in this behalf stated that the review application was made within the prescribed limitation period but one page was missing from the copy of the judgment enclosed with the petition. Applicants' counsel Shri O.P.Khokha was not well and, therefore, some time was taken on behalf of applicants to complete the review application. In this background, the delay is condoned.

3. The learned counsel of respondents further stated that the Tribunal had seen the original files to ascertain the circumstances under which the claimed

Wb

44


allowance had been sanctioned and also the additional affidavit of respondents as to under what circumstances it had not been possible to withdraw the facility of HPCA from categories of hospital staff categorised as non-ministerial. It is observed from Annexure RA-3 that various categories of Group "C" and "D" posts were changed from Ministerial to non-ministerial. All those posts that were classified as non-ministerial in Lady Hardinge Medical College were also classified as non-ministerial in Safdarjung Hospital and Dr. Ram Manohar Lohia Hospital. Thus, the HPCA got extended to these categories of hospital employees also. Recruitment rules were amended in accordance with the model recruitment rules. As the categories of Group "C" and "D" (ministerial) in the hospitals including head clerks, assistants, stenographers, statistical assistants etc., had already been categorised as non-ministerial by amending their recruitment rules, they had also become eligible for HPCA and it had not been possible to withdraw the facility of HPCA from categories of staff categorised as non-ministerial. It is true that in the order in question, it had been noted that the Ministry of Finance had advised the Ministry of Health & Family Welfare to withdraw this facility from certain categories of employees and as such, the OA had been dismissed. It is not clear from the OA whether records had been produced by respondents or not. However, Annexure RA-3 explains in what circumstances HPCA was not withdrawn from categories of staff categorised as non-ministerial in the hospitals, i.e., the recruitment rules of these categories of staff in hospitals were amended and they

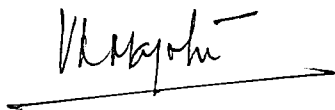
16

45

had already been categorised as non-ministerial and had become eligible for HPCA. Applicants are Group 'C' and 'D' employees of CPWD working in Safdarjung Hospital, New Delhi which have different recruitment rules than Group 'C' and 'D' employees of the Safdarjung Hospital, New Delhi. The Tribunal had noted. "No materials are on record to establish that applicants who are CPWD employees attached to Safdarjung Hospital were drawing the aforesaid washing allowance/hospital allowance at that point of time."

4. On perusal and consideration of what has been stated in the material on record in the OA as well as the RA, we do not find any error apparent on the face of record which would warrant recall or modification of order dated 27.2.2002. Accordingly, this review application is dismissed.


(Kuldip Singh)
Member (J)


(V. K. Maiotra)
Member (A)

/as/