

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No. 13/96

New Delhi, this the 10th day of September, 1998

HON'BLE SHRI N.SAHU, MEMBER(A)

(30)

1. Om Prakash s/o Sh. Suraj Kanwar,
Ferro Printer,
Directorate General of Health Services,
Nirman Bhawan, New Delhi.

2. G.S. Negi s/o Sh. N.S. Negi,
Ferro Printer,
Directorate General of Health Services,
Nirman Bhawan, New Delhi.

3. B.S. Rawat s/o Sh. Kundan Singh,
Ferro Printer,
Directorate General of Health Services,
Nirman Bhawan, New Delhi. Applicants

(By Advocate: Shri Ajit Pudusser)

Versus

1. Union of India through Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.

2. The Director General of Health Services,
Directorate General of Health Services,
Nirman Bhawan, New Delhi. Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R (ORAL)

BY HON'BLE SHRI N.SAHU, MEMBER(A)

Heard Shri Ajit Pudusser, ld. counsel for applicant and Shri K.C.D. Gangwani, ld. counsel for respondents.

2. It is noticed that the respondents have not filed the counter affidavit although notice was issued to them on 3.1.96. This court recorded repeated chances given to the respondents and observed on 18.9.96 that "if no reply is filed within two weeks, it would be deemed that respondents do not wish to controvert the factual averments in the

application and the right of the respondents to file reply will be forfeited." Thereafter several opportunities were given over last two years and ultimately on 13.8.98 this court levied cost on respondents and stated that if by 10.9.98 the reply is not filed, then the O.A. will be disposed of on the basis of available record. Reply has not been filed till now. In accordance with the earlier finding, I hold that the facts stated in the O.A. are uncontroverted and I shall proceed to dispose of the O.A. on the basis of those uncontroverted facts.

3. The applicants are working as Ferro Printers. The O.A. describes their job as handling dangerous chemicals including liquid Ammonia and they are also exposed to high voltage electric current. The Fourth Pay Commission recommended payment of risk allowance to these category of employees vide annexure 'A'. The Indian Council of Medical Research (ICMR) had also a chance to examine their case. They suggested certain remedial measures. Thereafter the Department of Personnel and Training by annexure 'C' laid down certain specific criteria for determining the categories of such employees who are exposed to this risk. Shri Ajit Pudussery also informs that Ministry of Defence had undertaken a full study regarding the question of payment of risk allowance. They recommended that Rs.100/- be paid every month as risk allowance in lieu of the milk that was allowed to earlier. By order dated 19/22.8.88, the Ministry of Personnel at para 2 categorised certain employees who are receiving risk allowance and directed the continuance of the same. The applicants who belong to the category of "Skilled Workers", according to this classification, would be entitled to risk

✓ allowance of Rs.40/- per month. Main criteria laid down in annexure 'C' is that the duties must be involving hazard to health and also such duties which adversely affect the employees' health over a long period of time. Shri Pudusseri states that the applicants fulfil this criterion. This O.M. further states that where a category of government servants in a department is in receipt of risk allowance, other categories of govt. servants in other Ministries similarly situated shall also be considered for the grant of this risk allowance. There is a proposal for inclusion of any new category fulfilling the criteria, after discussing the same with the concerned ministries. Annexure 'D' analyses the risk involved on exposure to ammonia and recommends at page 18 rupees 100/- per month as reasonable compensation. At annexure 'E' the Director General, All India Radio accorded to the free issue of 1/2 pint of milk to certain categories of ferro printers. I am informed that other departments have extended similar benefits.

4. Besides recommendations of the 4th Pay Commission which has decided in favour of the claim of the applicants, a committee was constituted and the President of India examined the recommendations of the Committee. O.M. No.21012/4/88-Estt.(Allowance), dated 22.8.88 deals with how much to compensate to each category of worker. It would be appropriate if a direction is issued to respondent no.2 to initiate the measures for granting relief to the applicants on the basis of the recommendations of the committee and in accordance with the above O.M.

Yours

5. Ld. counsel for respondents Shri Gangwani states that this O.A. is barred by limitation and there is no specific cause on which it is pleaded. He next refers to para 2 of annexure 'E' dated 25.1.89 wherein the Director General Health Services admits that ammonia is a well known irritant and suggested that protective clothing and equipment should be given to people so that they are not exposed to inhalation of ammonia. According to this Directorate, milk alone has no protective affect. Shri Gangwani submits that the respondents are considering several protective measures and if a direction is given by this court, they will spell out these measures and that should satisfy the applicants' claim. According to him, there is no need to order for an additional risk allowance. He also states that after 1983, no department has paid any risk allowance whatsoever. He says that DOPT has rejected the case of the department in which the applicants are working and suggested other remedial measures.

6. I have carefully considered the submissions. I am of the view that this O.A. is not hit by limitation. The exposure to the evil affects of ammonia are well recognised and documented by several expert agencies. Fourth Pay Commission has recognised this and recommended an appropriate compensation for the affected employees. That this allowance may be paid in cash or kind is a matter to be decided by the Govt. and no court can direct the government to compensate the employees in a particular manner. With regard to coal mines for instance, there is a long history as to how the workers in coal mines are exposed to bodily risk and compensation given to them is a

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useful example. The Government whose objective is to lookafter the welfare of the employees can not ignore such advice to lookafter the benefit of its employees.

7. Shri Gangwani states that protective measures are under consideration. In the year 1988, expert committee as well as Fourth Pay Commission thereafter have clearly advised the Govt. to fix some concrete compensation in this regard. For the last 10 years, the government has done nothing.

8. I direct respondent no.2 i.e. the Director General of Health Services, in consultation with respondent no.1, the Secretary, Ministry of Health and Family Welfare to examine the matter and spell out in a proper form the relief per month that the applicants shall be allowed either by way of protective equipment or by way of specific cash allowance or both, after hearing not only the expert opinions given by the competent bodies but also the applicants and such other persons, within a period of eight weeks from the date of receipt of a copy of this order.

9. Shri Gangwani states that this period is too short. As I have pointed out earlier that although a decade has passed and several expert bodies have already given their suggestions but the respondents have ignored this genuine and just claim of employees for such a long period. He also states that this requires consultation with other ministries as well as expert bodies. I reject further time requested by the counsel as the matter has already received attention at a very high level on the basis of which the DOPT has already laid down the criteria

Yours truly

(35)

and that on the basis of such a finding on record, respondents can proceed further. Shri Gangwani disputed that the applicants do not fall in the category which is spelt out in the document referred to above. This is a matter which requires to be considered by the respondents but I must also observe that having not filed the counter after availing extensions for two years, respondents are not in a position to controvert the facts narrated in the O.A.

10. The O.A. is disposed of as above. No costs.

Narashankar
(N. SAHU)
MEMBER(A)

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