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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.NO.274/94

New Delhi this 13th May, 1994.

1. R.S. KHATRI S/o Shri J.R.KHATRI Assistant Tech. Officer
2. N.S.SOLANKI S/o Shri ZORAWAR SINGH Assistant Tech. Officer
3. S. KRISHNAN S/o Shri K.SUNDARAVARADHAN Field Officer
4. R.G. SHARMA S/o Shri D.C. SHARMA Field Officer
5. J.B.AGGARWAL S/o Shri SHAMLAL Field Officer
6. D.C. SHARMA S/o Shri C.R. SHARMA Field Officer
7. V.S. BISHT S/o Shri DAULAT SINGH BISHT Field Officer
8. C.S.SARANGI S/o Shri KASINATH SARANGI Field Officer
9. K.S. VIRDHI S/o Shri A.S. VIRDHI Field Officer
10. M.R. SURESH S/o Shri M.R.RAMACHANDRA Deputy Field Officer
11. K.VERGHESE THOMAS S/o Shri K.V.THOMAS Deputy Field Officer
12. GOPAL SHARMA S/o Shri BANARASH SHARMA Deputy Field Officer
13. R.K.J.S.CHADHA S/o Shri S.S. CHADHA Asst. Field Officer
14. KHUSHIRAM S/o Shri GULABA RAM Senior Field Assistant
15. SURENDRA SINGH S/o Shri CHATAR SINGH Senior Field Assistant
16. R.S. PATHAK S/o Shri DEVIDASS PATHAK Senior Field Assistant
17. SUSHIL KUMAR S/o Shri URGAIN BODH Senior Field Assistant
18. AVTAR SINGH S/o Shri SUCHA SINGH Field Assistant
19. DHARAMPAL S/o Shri FALTU RAM Field Assistant
20. JAGDISH PRASAD S/o Shri OMPRAKASH Laboratory Attendant
21. N.K. JUYAL S/o Shri F.N. JUYAL Laboratory Attendant
22. RAMHET SINGH S/o Shri PARTIRAM Chowkidar
23. K.D. DUBEY S/o Shri R.N. DUBEY Joint Deputy Director
24. GIAN CHAND S/o Shri SUKHA NAND Senior Field Assistant

All are working under the Director General of Security,
Cabinet Secretariat, R.K. Puram, New Delhi.

.... Applicants

Versus

1. Union of India through the Secretary,
Ministry of Finance, Department of Expenditure,
North Block, New Delhi.
2. Director General of Security, Cabinet Secretariat
East Block-V, R.K. Puram, New Delhi -110 066

....Respondents.

By Advocate Shri Vijay Mehta

CORAM:

Hon'ble Mr. S.R. Adige, Member (A)

J U D G M E N T

This is an application filed by Shri R.S. Khatri and 23 others, all of them employees in the Director General of Security, Cabinet Secretariat, New Delhi praying for a direction to the respondents to extend the benefits of the judgment dated 28.7.92 in O.A.No.408/HP/92 'S.K. Puri & others Vs. Union of India & others' (Annexure-A3) and grant Special Compensatory (Remote Locality) allowance to the applicants along with the arrears together with the interest at the rate of 18% per annum.

2. The applicants, who are employees of the respondents-department, and working in the Director General of Security, Cabinet Secretariat state that all of them were posted at Anandpur prior to 31.5.91 under the supervision and control of respondent no.2 Director General of Security, Cabinet Secretariat. The respondent No.1 (Finance Ministry, GOI) vide their letter dated 15.11.85 (Annexure-A1) had granted the Special Compensatory (Remote Locality) allowance to the Central Govt. employees posted in certain areas of Himachal Pradesh State including those posted at Simla town and its suburbs/surrounding areas, The rates of this allowance were revised vide order dated 27.4.87 (Annexure-A2). As the 54 employees

of the respondents department posted at Anandpur (Shaghi), Distt. Shimla, were not paid this allowance, they filed O.A.No. 408/HP/92 S.K. Puri & others Vs. Union of India & others ^{in before CAT (Chandigarh Bench)}. The Tribunal vide its judgment dated 28.7.92 upheld the claim of the applicants for payment of the said allowance for the period from 31.5.88 to 30.5.91 at par with the Central Govt. employees stationed at Shimla. It was made clear that only such of the applicants would be allowed ^{the} allowance as have remained posted at Anandpur and for the period for which they had been posted at Anandpur. SLP No. 8181/93 filed by the respondents against that judgment was dismissed by the Hon'ble Supreme Court on 10.5.93 (Annexure-A4). The applicants allege that even after the dismissal of the SLP, the respondents did not comply with the Tribunal's direction, compelling Shri S.K. Puri & others to file a contempt of Court petition, and it is only after the receipt of notice for contempt of Court, the compliance was made by the respondents. They state that since they were posted out in between, they approached the respondents to extend the similar benefits, but they were informed that they would not be paid the said allowance unless and until they obtain a judgment from this Tribunal.

3. The respondents have challenged the contents of the O.A. in their counter-affidavit and have stated that the present application is not maintainable because the applicants have not challenged any order pertaining to any matter within the Tribunal's jurisdiction. It is stated that the grant of Special Compensatory (Remote Locality) Allowance to the Central Govt. employees

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posted in the remote areas of Himachal Pradesh has been governed by the Finance Ministry's O.M. dated 27.11.73 which has been amended from time to time, the last O.M. being dated 31.5.91 (Annexure-A5). It is alleged that the applicants had at no point of time represented to the authorities in regard to their grievance for making available to them the payment of the said allowance and hence the application is barred by limitation. It is also urged by the respondents that the Special Compensatory (Remote Locality) Allowance was admissible only to the petitioners of O.A.No. 408/HP/92 in accordance with the Tribunal (Chandigarh Bench) judgment dated 28.7.92 and the present applicants who were posted at the relevant time at Anandpur, never availed the opportunity^{of} ^{of} agitating their claim at Chandigarh Bench. They are now ⁱⁿ estopped from doing the same before this Bench and claiming Special Compensatory (Remote Locality) Allowance with retrospective effect.

4. I have heard Shri R.S. Khatri, the applicant in person and Shri Vijay Mehta, learned counsel for the respondents.

5. Shri Mehta has urged that the applicants have slept over their right and their cause of action is barred by limitation. He has emphasized that the applicants should have represented to the authorities immediately after the Chandigarh Bench of the Tribunal passed its judgment on 28.7.92, but without filing any such representation, the applicants have come to this Tribunal through this O.A. filed on 2.2.94, which was badly hit by limitation. On the other hand, the applicant^{Shri Khatri} argued that he and his colleagues had been

representing to the authorities from time to time and had been given assurance that the matter was under consideration but eventually their prayer for Special Compensatory (Remote Locality) Allowance was rejected. Copies of representation filed by some of the applicants dated 8.9.93, and the reply of the respondents dated 1.12.93 stating that the matter was under consideration, have been filed.

6. The applicants have also referred to the judgment of CAT (Calcutta Bench) in the case 'Y.G. Sharma Vs. Union of India & others' (1991(2)ATJ 123), wherein the practice of denying the benefits of decided cases to the persons similarly situated has been criticised and held as discriminatory and violative of Articles 14 and 16 of the Constitution.

7. A plain reading of the judgment in O.A.No.408/HP/92 dated 28.7.92 makes it clear that the Special Compensatory (Remote Locality) Allowance is admissible to the Central Govt. employees who were posted at Anandpur near Shimla during the period 31.5.88 to 30.5.91. Under the circumstances to deny such of those applicants in the present case who were posted in Anandpur during the period from 31.5.88 to 30.5.91, the benefits of Special Compensatory (Remote Locality) Allowance would be discriminatory and violative of Articles 14 and 16 of the Constitution. In that view, the argument, advanced by the respondents, that this application is hit by limitation, carries no force.

8. In the result, this application is allowed and the respondents are directed to extend the benefits of the judgment in S.K.Puri's case (Supra) by paying to such of those applicants in the present

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case, the Special Compensatory (Remote Locality) Allowance who remained posted at Anandpur near Shimla for the duration of their posting during the period from 31.5.88 to 30.5.91. These directions should be implemented within three months of the date of receipt of a copy of this order. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

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