



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.3711/2020
(S.W.P. No.2722/2002)

Wednesday, this the 16th day of December, 2020

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Ved Raj Bharati, S/o Shri Amar Nath, Aged 45 years, R/o H. No. 14, Below Gumat, Jammu. (Technician Grade-III).
2. Mohan lal, S/o Shri Dhani Ram, Aged 37 years, R/o Village Seri Pandita, Tehsil and District Jammu. (Technician Grade-IV)
3. Rameshwar Singh, S/o Shri Krishan Singh, aged 48 years, R/o Village Batera, Tehsil and District Jammu. (Technician Grade-II)
4. Ashok Kotwal, S/o Shri Krishan Lal, Aged 45 years, R/o H. No. 40-A, Excelsior Lane, Old Janipura, Jammu (Technician Grade-III).
5. Gurdev Singh, S/o Shri Inder Singh, aged 52 years, R/o W. No. 9, R.S. Pura, District Jammu, (Technician Grade-III).
6. Ramesh Chander Dogra, S/o Shri Ram Rakha, aged 53 years, R/op 1809-F, Rathore Street, Shastri Nagar, Jammu (Technician Grade-III)
7. Sampuran Singh, S/o Shri Jagat Singh, aged 48 years, R/o Village Purkhoo, Tehsil and District Jammu. (Technician Grade-II).

..Applicants

(Mr. K S Johal, Senior Advocate)

Versus

1. State of Jammu and Kashmir through Principal Secretary to Government, Power Development Department, Civil Secretariat, Jammu.
2. Development Commissioner (Power), Power Development Department, Civil Secretariat, Jammu.
3. Chief Engineer, Maintenance and Rural Electrification Wing, Jammu

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4. Executive Engineer, M&RE Division-I, Prade Ground, Jammu.
5. Executive Engineer, M&RE Division-II, Gandhi Nagar, Jammu.
6. Executive Engineer, M&RE Division-III, Mubarak Mandi, Jammu.
7. Executive Engineer, Sub-Transmission Division No. 1, Jammu

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicants were employed as Technician Grades II, III & IV in the Power Development Department, Jammu. There existed the facility of special benefits in case the applicants possess the qualification of matriculation and ITI. It is stated that though the benefit was extended to the employees of all the Departments, it was denied to those working in Power Development Department.

2. As regards the Technicians of the Police Department, they approached the Hon'ble High Court of Jammu & Kashmir, claiming similar reliefs. That was allowed and it is brought to our notice that the Hon'ble Supreme Court has confirmed the same.

3. The applicants filed S.W.P. No.894/1990 in the Hon'ble High Court of Jammu & Kashmir, claiming similar relief. A learned Single Judge granted the relief, vide judgment dated



04.06.1993. However, in L.P.A. filed by the applicants, the order was set aside, but with a direction to the respondents to examine the cases of the applicants in the context of extending the benefit of special allowance.

4. It is stated that the respondents ultimately passed order dated 30.08.1995, in terms of SRO 149 of 1973, providing for certain reliefs by granting relaxation, as one time measure. The applicants state that they were drawing the benefits thereunder.

5. Through an order dated 25.10.2002, the Chief Engineer took exception to the steps taken by the Executive Engineers and rescinded an order dated 17.10.2002. Challenging the order dated 25.10.2002, the applicants filed S.W.P. No.2722/2002 before the Hon'ble High Court of Jammu & Kashmir and sought a direction to the respondents to grant the benefits of order dated 30.08.1995 and to release their salary, on par with their juniors in the respective category.

6. The respondents filed a detailed counter affidavit narrating the circumstances under which the order dated 25.10.2002 was passed.

7. In view of re-organization of the State of Jammu & Kashmir, the S.W.P. has been transferred to this Tribunal and renumbered as T.A. No.3711/2020.



8. Today, we heard Mr. K S Johal, learned Senior Advocate for applicants and Mr. Sudesh Magotra, learned Deputy Advocate General, for the Respondents, through video conferencing.

9. It was a long drawn battle for the Technicians of various Departments, in the context of availing the benefit of special allowance under SRO 149/1973. Though the provision of law was common, the implementation was not uniform to different departments. The Technicians of the Police Department were denied it. They got the benefit by filing a Writ Petition; and it became final with the judgment of Hon'ble Supreme Court. The applicants, who are Technicians of the Power Development Department, have also approached the Hon'ble High Court. They were successful in the S.W.P. and on account of certain technical reasons, the Division Bench modified the order to the one of directing the respondents to consider their cases.

10. In compliance with the directions issued by the Hon'ble High Court, the respondents have undertaken extensive exercise and analyzed the analogous provision, which came into existence at a later point of time. It was found that as the situation obtained at that time, the benefit of SRO 149/1973 was not capable of being extended. However, by taking into account, the overall situation, and as a onetime measure, relaxation was granted and the benefits were extended through order dated

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30.08.1995. This decision was taken at the Government level. The applicants were getting the benefits thereunder without any interruption.

11. The circumstances, under which the Chief Engineer passed order dated 25.10.2002, are somewhat complicated. He was dealing with the question of convening of Departmental Promotion Committee (DPC) and seniority. However, as a passing reference, he mentioned about the benefits to the Technicians with ITI, and took exception. The matter before him was totally unconnected with the issue pertaining to the one conferment of benefit on Technicians with ITI.

12. The respondents stopped the benefit as a sequel to the order dated 25.10.2002. The Hon'ble High Court passed a detailed interim order, directing continuation of the benefits,. The same is in force for the past about two decades. By this time, several employees have retired. We are convinced that the order dated 25.10.2002 does not have any effect of annulling the order dated 30.08.1995. The reason is that the impugned order is passed by the Chief Engineer, whereas the benefit is conferred by the Government. Secondly, there is no specific mention about the benefits to the Technicians with ITI qualification, in the impugned order.

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13. We, therefore, dispose of the O.A. directing that the impugned order dated 25.10.2002 shall not have the effect of rescinding the benefit, which was extended to the applicants and similarly situated employees, vide order dated 30.08.1995 passed by the Government. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

December 16, 2020

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