

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.2291/2004

New Delhi this the ^{2nd} March, 2005

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER(A)

1. Anil Kumar
S/o Shri Ramphal Singh,
R/o 129, Jagdamba Colony,
Johri Pur, Delhi-110 094.
2. Sh. Tota Ram Naugain,
S/o Late Shri Ganesh Prasad,
R/o 244, Saraswati Enclave,
Gopal Nagar, Najafgarh,
New Delhi-110 043.
3. Ram Sagar Prasad,
S/o Late Shri Bhola Prasad,
R/o 700, Kalyanvas,
Delhi Admn. Flats, Delhi.
4. Shri Pyare Lal
S/o Shri Naurang Singh,
R/o Village & P.O. Sahibabad,
District Ghaziabad (U.P)
5. Ram Lal,
S/o Shri Dhokhran,
R/o 132, Chhatar Pur,
New Delhi-110 030.
6. Sh. Jagdish Chand,
S/o Late Shri Take Chand,
R/o 588, Kalyan Vas,
Delhi Admn. Flats
Delhi.
7. Chander Bhan
S/o Late Shri Yad Ram,
R/o Village Bharthal,
P.O. Bijwasan,
New Delhi - 110 061.

(By Advocate: Shri S.K.Gupta)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat, Players Building
I.P.Estate, New Delhi-110 002.
2. Principal Secretary (Finance),
Govt. of NCT of Delhi,
Delhi Secretariat, Players Building,
I.P.Estate, New Delhi-110 002.
3. Secretary (Law & Justice),
Govt. of NCT of Delhi,
Delhi Secretariat, Players Building,
I.P.Estate, New Delhi-110 002.
4. Secretary (Services),
Govt. of NCT of Delhi,
Delhi Secretariat, Players Building,
I.P.Estate, New Delhi-110 002.
5. Principal Secretary (Health),

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Govt. of NCT of Delhi,
Delhi Secretariat, Players Building,
I.P.Estate, New Delhi-110 002.

6. Director,
Directorate of Prevention of Food Adulteration,
A-20, Lawrence Road, Industrial Area,
New Delhi-110035. ...Respondents.
(By advocate: Shri Ram Kanwar)

ORDER

By Shri S.A.Singh:

The applicants, who are seven in number, are Process Servers in the Directorate of Prevention of Food Adulteration, New Delhi. They are aggrieved by the respondents' order denying them upgradation of pay scale to that of Process Servers who are appointed by District Courts in Delhi. The Process Servers of District Courts, Delhi formed an Association called Bailiff and Process Servers Association and filed CWP No.3060/89 before the High Court of Delhi. The High Court had directed that they saw no reason why the pay scale of the petitioners in that CWP should not be same scale of pay as that fixed for Process Servers in family court vide Notification of 14.4.92 in terms of the recommendations of the 5th Central Pay Commission. The Delhi Administration had filed SLP No.1613/2003 before the Apex Court, which was dismissed on 31.10.2003.

2. The main ground of the applicants for grant of scale of Rs.3050-4540 w.e.f. 01.01.1996 is that they are similarly situated to those who had been benefited from the judgment of the Delhi High Court and rejection of their case on the ground that they were not members of the Association, which had filed the CWP before Delhi High Court is untenable. As they are similarly situated persons they are covered by the judgment, hence they are entitled to the relief as prayed for.

3. The respondents have pleaded that as the applicants were not members of the Association that filed CWP before Delhi High Court they were not granted the scale but even then their matter was taken up but the Law Department did not agree with the proposal of up-gradation of their pay scale nor did the Finance Department concur with the proposal. The applicants were informed accordingly.

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4. We have heard the parties' counsel and gone through the record. We find that the only reason for denying the applicants the relief is that they were not members of the Association which had filed the case before Delhi High Court and that their proposal has neither been agreed to by the Law Department nor concurred by the Finance Department. The impugned order clarifies the position and reads as under:

"Reference their representation regarding up-gradation of pay scale of Process Servers in pursuance of the Hon'ble High Court of Delhi's judgement delivered in case No.CW 3060/1989 dated 04.04.2002 in respect of Bailiff & Process Servers Association (Regd.) & Ors Versus Delhi Administration Delhi & Ors, the following process servers of this Directorate are hereby informed that the request was considered by this Directorate as well as the L & J Finance and Services Department, and could not be acceded to, as they are not the members of the Association which filed the suit and the orders of the Hon'ble High Court is not automatically applicable."

5. The respondents have not refuted the claim of the applicants that they are similarly placed as those of who have been granted higher pay scale. On the contrary, in their counter have stated as under:-


"The Law Department of the GNCT of Delhi categorically stated that as the Process Servers of the Dte. Of PFA are not members of the association, that had filed the above CW and therefore the orders of the Hon'ble High Court are not automatically applicable to the process Servers of the Dte. Of PFA. However, the Law Department observed that on the basis of principles adumbrated in Article 39 (d) read with Article 14 of the Constitution of India, the doctrine of equal pay for equal work may be considered for appropriate orders by the Administrative Department as well as the Finance Department to decide the issue."

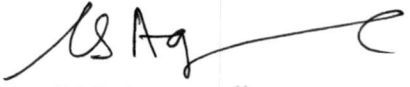
From the foregoing it is clear that the applicants are similarly placed as those Process Servers who filed the case before the Delhi High Court and on the principle of 'equal pay for equal work' and equality before the law they would be fully covered by the judgement and are entitled for the benefits accruing from the judgement of the Delhi High Court in CWP No.3060/1989 decided on 04.04.2002.

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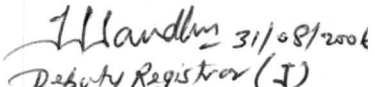
6. In view of above, we allow the present application and quash and set aside the impugned order. Respondents are directed to extend the benefit of the judgement of the Delhi High Court dated ⁰⁴⁻⁰⁴⁻²⁰⁰² 4.2.2002 to the applicants. However, arrears in pay would be restricted to three years from the date of filing of the O.A., i.e. ^{from} 22.9.2004. No costs.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/kdr/

⊙ Corrected as per orders of the Hon'ble Bench in MIA No 1283/2006 dated 23/08/2006 in OA No 2291/2004.


Deputy Registrar (J)