

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH, ALLAHABAD

(This the 3rd Day Of July, 2013)

Hon'ble Mr. Shashi Prakash- AM

Original Application No.1126 of 2005

(U/S 19, Administrative Tribunal Act, 1985)

1. Satya Pal Singh S/o Sri Ganga singh R/o Village and Post Mandure Aonla District Bareilly (U.P.), presently working as a Casual Personal C.P. Chowkidar in Sub Post Office, Aonla, District Bareilly (U.P.) with temporary Status.
2. Sushil Kumar S/o Sri Ram Bharosey R/o H. No.910 Bakarganj, Balmiki Basti, Bareilly (U.P.), presently working as a safaiwala in S.S.P. Post Office, Head Post Office, Bareilly (U.P.) with Temporary Status.
3. Prabhu Dayal S/o Sri Bhoop Ram R/o Village Doharia P.O. R.K. University Bareilly (U.P.), presently working as caretaker in S.S.P. Office, Head Post Office Bareilly (U.P.) with Temporary Status.
4. Furkan Ahmad S/o Late Sri Maula Bux R/o H. No.268, Ghare Sheikh Mithoo Bareilly (U.P.), presently working as Pump Operator at Postal Colony, Bareilly Cantt Bareilly (U.P.) with Temporary Status.
5. Chet Ram S/o Sri Ghunni Lal R/o Subhash Nagar, Bareilly (U.P.) presently working as Night Chowkidar in the C.G.H.S. Dispensary Chaupala Exchange, Bareilly (U.P.) with Temporary Status.
6. Daulat Ram S/o Sri Tika Ram R/o Q. No.9 Second Floor Type-I, P&T colony, Chaupala, Bareilly (U.P.), presently working as a Plumber in the office of S.S.P. Head Post Office, Bareilly (U.P.) with Temporary Status.

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7. Madan Singh S/o Sri Kharag Singh R/o Q. No.10, Second Floor Type-1, P&T Colony, Chaupala, Bareilly (U.P.), presently working as a Night Chowkidar in the office of S.S.P. Head Post Office Bareilly (U.P.) with Temporary Status.
8. Hari Om S/o Sri Raghunath Prasad Sharma R/o H. No.B-35, Ashok Vihar, P.O. Izatnagar Bareilly (U.P.) Presently working as Chowkidar in the Head Post Office, Bareilly with Temporary status.
9. Mahabir Singh S/o Shri Sundar Singh r/o H.No.343 Sanjay Nagar Colony, P.O. Rohilkhand University Bareilly U.P. presently is working at Shahamatganj, Branch P.O. as Chowkidar Bareilly with Temporary Status.

..... Applicants

By Advocate: Shri R.C. Pathak

Versus

1. Union of India, through Secretary Ministry of Personnel Public Grievance Pension Department of Personal and Training Govt. of India New Delhi.
2. Union of India through the Secretary Communications, Ministry of Communication Govt. of India, Dak Bhawan Sansad Marg, New Delhi 110001.
3. The Chief Post Master General Department of Posts, Govt. of India U.P. Circle, Lucknow (U.P.) 226001.
4. The Post Master General Bareilly Region, Civil Lines, Bareilly (U.P.).
5. The Senior Superintendent of Post Offices, Bareilly Division, Head Post Office, Bareilly (U.P.) 243001.

..... Respondents

By Advocate: Shri Raghuvendra Pratap Singh

ORDER

This O.A. has been instituted for the following relief/s:-

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- (i) Issue suitable order direction by way of certiorari quashing the order dated 26.4.2004 shown as Annexure No.1 to this Original Application.
- (ii) Issue suitable order direction by way of mandamus to follow the terms condition of order or granting temporary status to the applicants with regards to G.P.F.
- (iii) Issue suitable order direction to follow up the Hon'ble Supreme Court Judgment dated 29.11.89 treating the applicants at par with temporary Group 'D' employees of the department of posts.
- (iv) Issue suitable order direction by way of mandamus to the respondents to continue the deduction of G.P.F. of the applicants.
- (v) Issue suitable order or direction by the Hon'ble Tribunal as deem fit and proper in the circumstances of the applicants' case.
- (vi) Award the cost of the application to the applicants."

2. The brief facts of the case are that the applicants were engaged as Casual Laabour on different dates. Pursuant to judgment of Hon'ble Supreme court in the case of *Jagriti Mazdoor Union and others Vs. Manager Telephone Nigam Limited and other, SSC L&S (1990) 606* the Director General Posts New Delhi issued a circular 30.11.1992 for regularization of casual labourers and consequently the applicants were granted temporary status w.e.f 29.11.1989 giving them all the benefits at par with temporary Group D employees. As per the condition mentioned in the Communication dated 30.11.1992 issued by the Director General (Posts) New Delhi, the respondents stated to deduct the G.P.F. of the applicants.

3. The grievance of the applicants is that on 26.04.2004, the respondent No.1 issued the impugned order to stop deduction of G.P.F. of the applicants on enforcement of new pension scheme w.e.f. 01.01.2004 and ordered for deduction of E.P.F. Aggrieved by the action of the respondents the applicants have filed the instant O.A. on the ground that the respondents cannot deviate from the condition under which the applicants were given temporary status and GPF was deducted. It is further alleged that the Hon'ble Supreme Court in the case of Jagriti Mazdoor Union (supra) has clearly held that the casual labourers, with temporary status after serving 3 years, at par with temporary Group 'D' employees of the Department of Posts with other benefit including deduction of G.P.F. Hence, the impugned order whereby applying the provisions of new pension scheme is totally illegal and not sustainable as the new pension scheme is only applicable to the new entrants after 01.01.2004.

4. On notice respondents have filed their counter affidavit and submitted that the applicants are contingency Paid Casual labourers of Department of Posts. They were granted temporary status and given all facilities at par with Group 'D' officials and supported the impugned.

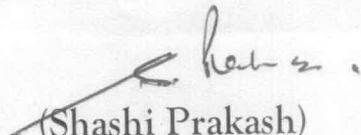
5. Heard rival submission and perused the pleadings on record.

6. The short question involved in the present O.A. is whether the benefit once granted in terms of D.G. Posts letter dated 30.11.1992 can be subsequently altered to the disadvantage of the employees

without justifiable and valid reason. From the letter dated 30.11.1992, it is crystal clear that the applicants were held entitled to the benefit at par with temporary group 'D' employees including deduction of G.P.F. and on granting of temporary status to the applicants, the respondents started deducting G.P.F. from their salary. In the instant case, from the impugned order it is seen that the discontinuation of deduction of the G.P.F. of the applicants has been affected because of introduction of new pension scheme. It is to be noted here that the deduction from the salary of the applicants was being made in terms of their employment condition which included specific condition for deduction of G.P.F. Accordingly, the G.P.F. was being deducted from the pay of the applicants. The ground taken by the respondents in the instant case for discontinuation of deduction of G.P.F. of the applicants does not appear to be justifiable. The relevant provision of the new pension scheme which warrant such an action on the part of the respondents has not been spelled out by them. The provisions of the new pension scheme was introduced w.e.f. 1.1.2004. It would therefore be applicable only to the employees who have been appointed on or 1.1.2004. As the applicants had been granted temporary status between 29.1.1989 to 10.09.1993 (Annexure A-4 to A-8) and the deduction has been made from their pay towards G.P.F., the respondents do not have any legal and valid reasons for discontinuing the aforesaid deduction. A benefit extended to an employee under the terms of his service at the time of joining cannot be altered to his disadvantage at a subsequent stage except in accordance with provisions of Law/Rules.

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7. In view of the foregoing reasons, the impugned order dated 26.04.2004 suffers from legal infirmity and therefore set aside. The respondents are directed to continue deduction towards G.P.F. for the pay of the applicants. No costs.


(Shashi Prakash)
Member-A

Sushil