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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No.1256 of 1987

All India C.G.H.S Employees
Association Branch Allahabad Applicants

Versus

Union of India & Ors. Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

1. The applicant No.2 claiming himself to be the All India Central Government Health Scheme Employees Association, Branch Allahabad giving the name of 76 members who are before this application have prayed for quashing the order dated 31.3.1987 passed by Director General, C.G.H.S, New Delhi rejected the case of the employees by saying this that the Judgment of V.N. Singh Case is applicable only in the matter of V.N. Singh and cannot be realised the leave salary of other employees on the basis of V.N. Singh's Judgment.

2. There was a strike in C.G.H.S since 1.7.1978 to 22.7.1978. After the break of this Strike Period it was agreed upon a gesture of good will that the period of strike would be treated as 'Leave due 'to the employees and direction to this effect were issued under

Director General Health Services New Delhi, Order No. D-12019/10/78-C.G.H.S II dated 28.7.1978. The Strike Period was thus treated as 'Leave Due' and salary was paid to the employees. Thereafter the Director General of Health Services Vide letter No. D12019/10/78-C.G.H.S II(Pt) dated 8.2.79 cancelled the previous order dated 28.7.78 in view of ^{Govt. of} India Department of Personal Administrative Reforms D.M. No.33011/1/77 Estt-8 dated 25.4.78 on the basis of which the Strike Period was treated as on 'Non duty' resulting in recovery of salary already paid was recovered in instalments. One V.N. Singh filed a suit before the Munsif which was decreed. The appeal against the decreed suit filed for hearing before the Addl. District Judge Allahabad which was dismissed and thereafter an order for refund of deducted salary to him was passed. On the basis of the said judgment, thereafter the Chief Medical Officer vide order dated 3.4.84 released the leave salary of V.N. Singh. The applicants have approached the Tribunal on the same ground of prayer that in view of the decree has been passed by the Competent Court of Law and declaration should be granted. The respondents rejected the case of the applicants because the case of all other ^{striking} employees is the same and based on the same ground. Thus the order passed by the respondents is discriminatory under Article 16 of the Constitution of India and is against the principles of natural

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justice. The applicants claim be now barred by time.

V.N. Singh approached the Court of Law and the benefit of said judgment could not be given to the applicant as a declaration has been made by Competent Court of Law which has held that no recovery can be held and once a decision would be taken the same cannot be refunded.

A decision given by the Directorate to treat the period as ~~Leave of the kind described~~ Extra Ordinary Leave and direction was made to make the payment could not have been released after it was coming into effect and that too without hearing the person effected giving an opportunity of hearing no recovery could have been made. It is not expected that the Government take a decision after discussing the matter with the employees in their interest and thereafter when it is implemented recalled which cannot be appreciated and cannot be legally justified and accordingly the applicants are also entitled to the same benefit which earlier the said V.N. Singh case got through the Court of Law. The respondents are directed to refund the amount which has been so recovered from the applicants and treat the said Strike period as ~~Leave of the kind described~~ Extra Ordinary Leave as was directed in the Directorate Letter of the year 1978. Let the refund be made within a period of Four months from the date of communication of this Order. No order as to the costs.

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Shanbagh
Member (A)

V.C.

Dated: 24th January, 1992

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