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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application NO. 1200 of 1993

Allahabad this the 31st day of Aug 1995

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Mr. S. Dayal, Member (A)

Smt. Sundari Devi W/o R/o R.T.I. Chauraha, Peernagar,
Ghazipur.

APPLICANT

By Advocate Shri S.S. Tripathi

Versus

1. Union of India through Secretary, Ministry of Finance Department of Revenue, Central Board of Direct Taxes, New Delhi.
2. Commissioner of Income-Tax, Allahabad.
3. Income Tax Officer, Ghazipur.

RESPONDENTS

By Advocate Shri Amit Sthalekar.

O R D E R

By Hon'ble Dr. R.K. Saxena, Member(J)

Smt. Sundari Devi has approached the Tribunal for in/action on the part of the respondents for not regularising her in service and paying salary of Class IV employee.

2. The Briefly stated the facts of the case are that the applicant was engaged as Sweeper in the office of Income-Tax-Officer at Ghazipur some time in 1980. The respondents on the other
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hand pointed out that she was engaged as Part Time Sweeper in the year 1984. The contention of the applicant is that she was paid wages at the rate of Rs.4.50 per day, Rs.6/- per day and Rs.15/- per day for different periods. The Commissioner of Income Tax, Allahabad got the list prepared on 28.2.1988 in which the applicant was placed at serial no. 62 and was shown to have been working since 1984. All the persons who were placed in the said list, were expected to get minimum salary of Rs.750/- from 01.12.1986. It is said that the applicant was paid minimum salary for 3 months January, 1991 to March 1991 but, thereafter, without any order or intimation, it was stopped and again the wages at the rate of Rs.15/- per day were allowed to be paid. It is also contended that the respondents flouted the Judgment of Hon'ble Supreme Court in the case 'U.P. Income Tax Department Contingency Paid Staff Welfare Association Vs. Union of India and Others AIR 1988 SC 517'. This Tribunal has also decided the cases of Uma Dwivedi and Krishan Kr. Tripathi. in the light of the Judgment of Supreme Court but, the applicant was not given any benefits. Hence this O.A. has been preferred.

3. The respondents contested the case and contended that the applicant was engaged as Part-Time Contingent Paid Sweeper w.e.f. 01.4.1984 alongwith ~~the~~ other persons. It is admitted that on the request of the applicant, Income Tax Officer, Ghazipur sanctioned full time work in the office w.e.f. 1st October, 1989 and the wages for full day, were paid on the rate of

Rs.25/- per day, It is also admitted that she was paid wages at the rate of Rs.4.50 per working day from January, 1984 to February, 1985, at the rate of Rs.6/- per working day from 28.2.1989 to 30.4.1988, at the rate of Rs.8/- per working day from May, 1985 to September, 1988; and, at the rate of Rs.15/- from October, 1989 to December, 1990. It is also admitted fact that she was paid salary for January, 1991 to April, 1991 at the rate of Rs.1073 (basic pay of Rs.750/- and D.A.Rs.323 per month) but, subsequently it was stopped and she was paid Rs.16/- per day from May, 1991 to September, 1982. The wages at the rate of Rs.25/- per day are being paid to her from October, 1992 to till date. It is also contended that the applicant is of contingent staff and, therefore, she was not entitled for the minimum salary.

4. The applicant submitted the rejoinder reiterating the facts which were already disclosed in the O.A.

5. We have heard the learned counsel for the parties and have perused the record.

6. The main question in this case is whether the ratio of the case U.P. Income Tax Department Contingency Paid Staff Welfare Association Vs. Union of India and Others (Supra) is applicable to the present applicant. In the case before their Lordships of Supreme Court, the petitioners were of contingent paid staff of the Income Tax Department in the U.P. They were also being paid daily wages and not the minimum salary which is paid

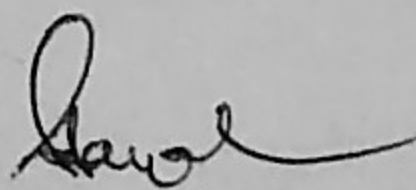
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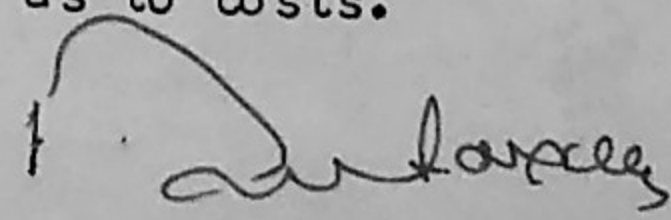
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to regular employees. Their Lordships had directed the respondents to pay wages to the Workmen who were employed as contingent staff of the I.T. Department through out India doing work of Class IV employee at the rates equivalent to the minimum pay in the pay scales of the regularly employed workers in the corresponding cadres without any increment w.e.f. 01.12.1986. It was further directed that such staff ~~was~~ ^{are} eligible for the corresponding D.A. and Additional D.A. payable thereon. The further direction was that whatever other benefits which were being enjoyed by the said workmen, are continued to be extended to them. Looking to this dictum, it is clear that the said Judgment was not confined to the employees of the particular place but it was made applicable to all the employees of contingent paid staff of Income Tax department. Thus, the respondents have got no escape but, to follow the dictum in respect of this applicant also. The respondents are, therefore, directed to give minimum salary of regular class IV employee to the applicant from the time when full time working ² was taken from her.

7. In view of the above facts, the applicant succeeds. The O.A. is disposed of accordingly. The respondents are directed to make compliance within a period of 3 months from the date of receipt of this Judgment. There will be no order as to costs.


Member (A)


Member (J)

/M.M./