

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Dated: The 12th day of August 1997

CORAM: HON'BLE MR. S. DAYAL, A.M.

ORIGINAL APPLICATION NO. 731 of 1994

Ayekar Karamchari Maha Sangh Varg, GHA
through Secretary Chander Ram, 38, Mahatma Gandhi Road,
Ayekar Bhawan, Allahabad. Applicant
C/A Shri A.B. Srivastava, Adv.

Versus

1. Union of India through the Secretary
Government of India, M/o Finance
Department of Revenue,
North Block, New Delhi.

2. The Commissioner of Income-tax,
38, Mahatma Gandhi Marg,
Ayekar Bhawan, Allahabad.

.... Respondents

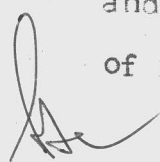
C/R Shri Amit Sthalekar, Adv.

ORDER

BY HON'BLE MR. S. DAYAL, A.M.

This is an application under section 19 of the ~~Central~~
Administrative Tribunals Act, 1985.

2. The applicant seeks the relief of payment of H.R.A.
and C.C.A. at appropriate rate from 1.4.1986 till the date
of regularisation of the employees named in annexure-A 4.




The applicant also seeks a direction regarding regularisation of services of the employees named at serial no.28 in annexure-A4 from the date of regularisation of their juniors. The cost of the application is also prayed for.

3. The applicant U.P.Ayekar Vibhag Sanyukt Karmachari Sangh and another has filed this application claiming the benefit of judgment of the Apex Court in U.P.Income-tax Department Contingent Paid Staff Welfare Association v. Union of India A.I.R. 1988(SC) 517 and other judgments of the Central Administrative Tribunal in O.A.No.402 of 1991 K.K.Tripathi v. Union of India and others, O.A.No.498 of 1991 K.P.Singh v. Union of India and others and 512 of 1991 Ashok Kumar and others v. Dy. Commissioner of Income-tax and others. It was disposed of by a common judgment dated 23.5.1993 directing the respondents to pay not only minimum pay scales, D.A. and A.D.A. but other benefits which have been enjoyed by the employees of the same cadre. It is claimed that H.R.A. and C.C.A. was paid in pursuance of this judgment and the judgment in the case of Smt. Uma Devi v. Union of India and others in O.A.No.103 of 1990 decided on 8.4.1991.

4. The directions given in the common judgment dated 25.5.1993 are as follows:-

"All the three applications are disposed of with the directions to the respondents to pay salary to all the applicants at the minimum of the pay scale, applicable to the regularly employed clerks/typists in group 'C' with effect from the date they were engaged to work without increment, but with benefit of corresponding D.A., A.D.A. and other benefits which are enjoyed by the employees of the same cadre. The respondents shall pay the arrears to the applicants within a period of three months from the date of communication of this order and shall continue to pay the appropriate salary in the light of observations made above."

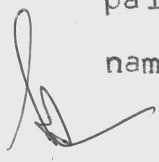


5. The directions given in O.A.No.1043/1991 are extracted below:-

"This petition is, therefore, disposed of with a direction to the respondents to pay salary to all the applicants at the minimum of the scale applicable to the regularly employed stenographers and typists respectively and Group 'C' with effect from 1.12.86 without increments but with benefit of corresponding D.A., Additional D.A. and other benefits which are enjoyed by the employees of the same c-ategory. The respondents shall pay the arrears of the applicants within a period of three months from the date of receipt of a copy and shall continue to pay the appropriate salary in accordance with law."

6. The arguments of Shri A.B.L.Srivastava, counsel for the applicant and Shri A mit Sthalekar counsel for the respondents have been heard.

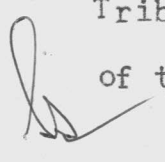
7. The respondents in response to the claim of the applicant has filed a short counter reply in which they had contested the maintainability of the application on the ground that the applicant was not seeking a relief for himself and can be made only by persons against whom orders dated 16.3.1994 were passed and annexed to the Original Application. The case of the learned counsel for the applicant is that the ~~application~~ ^{petition} has been filed by U.P. Ayekar Vibhag Sanyukta Karamchari Sangh through its Secretary Bajrang Bali Giri and his successor Shri Chandra Ram who were ~~have~~ themselves contingent paid workers and aggrieved by non payment of H.R.A. and C.C.A. The learned counsel for the applicant has also mentioned that the Original Application mentions that ^{it} has been made on behalf of those contingency paid workers who had not been paid H.R.A. and C.C.A. whose names are mentioned in Annexure-A4.



8. The judgment of the Apex Court in U.P. Income-tax Department Contingent Paid Staff Welfare Association v. Union of India and others did not confer the benefit of H.R.A. and C.C.A on the application in that case. The order of the Apex Court is extracted below:-

".....We accordingly allow this Writ Petition and direct the respondents to pay wages to the workmen who are employed as the contingent paid staff of the I.T. Department throughout India, doing the work of Class IV employees at the rates equivalent to the minimum pay in the pay scale of the regularly employed workers in the corresponding cadres, without any increments with effect from 1st December, 1986. Such workmen are also entitled to corresponding Dearness Allowance and Additional Dearness Allowance payable thereon. Whatever other benefits which are now being enjoyed by the said workmen shall continue to be extended to them. We further direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the contingent paid staff of the I.T. Department who have been continuously working for more than one year as Class IV employees in the I.T. Department..... "

It is clear from the above order that the contingent paid employees were to be given minimum of pay scale plus D.A. and A.D.A as per the orders of the Apex court besides being allowed other benefits which were being enjoyed by them at that time. The judgments of the Tribunal in Krishna Kumar Tripathi and Uma Devi's (supra) cases extended the benefits of H.R.A. and C.C.A also to the contingent paid workers. The respondents in their short C.A. have not denied the payment of H.R.A. and C.C.A to the applicants in the two O.As. referred to earlier besides the other Tribunal but has only raised the issue of non maintainability of the application. The Rule 4,5(b) of the Central Administrative



Tribunal(Procedure) Rules 1987 permits filing of joint application by an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories of the persons on whose behalf it has been filed that atleast one affected person joins such an application. The application makes it clear ^{that it has been} made on behalf of the contingent paid employees of the respondents department who had not granted the benefit of payment of H.R.A. and C.C.A. and the ^{two} secretaries ~~were~~ of the employees affected and ~~their~~ names appears at serial no.31 and 53 of annexure-A4 of the application, have joined ⁱⁿ the application. The learned counsel for the applicant has not stressed the issue of regularisation of the services of members of association, who have joined as applicants in the present application. The applicants have casually mentioned that Shri Jagdish Prasad should be regularised in para 4.3.2 and have also mentioned in para 4.7. The cases of the Apex Court in Vijai Pal Sharma and others v. Delhi Administration and others (1992) 21 ATC 399 and in Niadar and another v. Delhi Administration and another (1992) 21 ATC 398 had issued directions for regularisation of casual labours. In both the cases the directions have been given by the Apex Court in the context of a group casual labours for ~~formation~~ of scheme for regularisation while ⁱⁿ the present case the applicant Mahasangh is seeking to apply the case to an individual who was specially left out while others ^{who} were alleged to be juniors were considered. The respondents have not mentioned anything to deny the claim of the Maha Sangh. The learned counsel for the respondents at this stage raises objection about the maintainability of plural reliefs specially in the context of the application made by a Karamchari Maha Sangh for regularisation of individual employee. The learned counsel for the applicant agrees to delete the relief and claims ^{the same} subsequent relief

through another application if found necessary.

8. The respondents are, in the light of the above discussion, directed to consider the claims of the applicants whose names are contained in Annexures-A4, and who make a representation along with the copy of this order, for payment of H.R.A. and C.C.A., within three months of the receipt of the claim along with the copy of this order on the same basis as payments already allowed to other employees in the past. The applicants shall be entitled to arrears of H.R.A. and C.C.A. with effect from 1st May 1994, which is the date on which the application for H.R.A. and C.C.A. was made by them. There shall be no order as to costs.


(MEMBER (A))

Gcs