

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH: JODHPUR

ORIGINAL APPLICATION NO. 182/2008

Date of order: 06.07.2011

CORAM:

HON'BLE DR. K.B.SURESH, JUDICIAL MEMBER

HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

O.P.Poonia S/o Shri Magha Ramji, aged about 50 years, R/o C-40, Narsinh Vihar, Lal Sagar, Jodhpur, presently working on the post of Scientist 'B' in the office of Central Ground Water Board, State Unit 64, Polo I, Jodhpur, Rajasthan.

.....Applicant.

Mr. S.K.Malik, Advocate, for the applicant.

ORIGINATOR:

1- The Union of India through the Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.

CORAM:

2- The Central Ground Water Board through its Chairman, Ministry of Water Resources, Central Government Offices Complex NH - 4, Faridabad.

3- The Director (Ground Water ESTT), Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.

4- The Secretary, Union Public Service Commission, Dholpur House, Sahajahan Road, New Delhi.

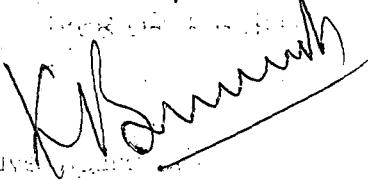
.....Respondents.

Mr. Mahendra Singh Godara brief holder for Mr. Vineet Kumar Mathur, Advocate, for the respondents.

ORDER (ORAL)

[PER DR. K.B.SURESH, JUDICIAL MEMBER]

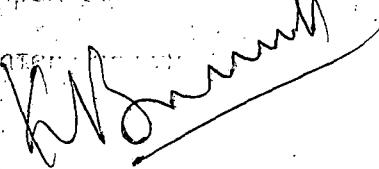
We have heard the matter in detail. It would appear that following the judgement in Sehgal's case reported in [2006] (12) SCALE 367, which negated the High Court rule to maintain parity between the similarly situated persons on the ground that when the rules are contrary to this scenario then the rules will have primacy was upheld by the Apex Court. In fact the Department of Legal Affairs had analysed the situation and we feel correctly and

  
Dr. K.B. Suresh

they had suggested certain methodology which probably may have been one reason for the judgment of the Andhra Pradesh High Court in the Writ Petition No. 22349 of 1999 dated 10.09.2008 in Union of India and Anr. Vs. V. Sambasiva and Ors. This judgment of the High Court of Andhra Pradesh at Hyderabad is very clear and elucidative and concludes that the presidential order which has statutory force and pursuant to which the Department of Science and Technology, Government of India, issued O.M. No. A-42014/2/86-Admn.I(A) dated 28.5.1986 and the O.M. dated 2.5.1986 and the consequent O.M. No. 2/41/97-IPC dated 9.11.1998 and following which the High Court held that the Department is under an obligation to implement the O.M. dated 2.5.1986 as modified by O.M. dated 09.11.1998 and to take further action to implement the same in respect of the original applicants in the O.A.

2- The concerned authorities had challenged this before the Hon'ble Apex Court and by the decision dated 31.08.2009 in CC No. 7347 of 2009 the Hon'ble Apex Court condoned the delay in filing the SLP but, in view of the facts and circumstances of the case declined to interfere in the matter. Therefore, the decision of the High Court of Andhra Pradesh High Court became merged with that of Hon'ble Apex Court and it is this decision which will hold good as it is the later decision.

3- Having declared this we think that it is better to remit the matter to the respondents especially in the light of several O.Ms issued thereafter particularly the Ministry's Office order No. 7.7.2010-CGWB dated 29.04.2010 and Office Order 379/2010 dated 4.5.2010 of the Ministry of Water Resources, Government of India and other orders placed before us which are of the same nature and this is the later decision.



cause. With the change in the scenario following the Sehgal's case even taken note of by the respondents themselves and as the cause agitated by the applicant can be satisfied within the parameters declared by the Apex Court and Andhra Pradesh High

Court and now opened by the Hon'ble Supreme Court as stated above and also the consequent orders which followed it, which seem to be squarely applicable in this cause.

4- Therefore, we remit the matter back to the respondents to re-consider the case of the applicant on the basis of benefit granted to the equally situated other persons and grant the same and similar benefits to the applicant also if otherwise found eligible in relation to extant orders within a time frame of three months next. The O.A. is allowed to the limited extent as above with no order as to costs.

(Sudhir Kumar)

M(A)

(Dr.K.B.Suresh)

M(J)

jrm

M(A)