

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.486 of 1997

Present : Hon'ble Mr. S. Biswas, Administrative Member

Hon'ble Mr. A. Sathath Khan, Judicial Member

1. Prasanta Kishore Roy S/o Late S.K. Roy
2. Subrata Das S/o Shri P.C. Das
3. Sandip Narayan Bhattacharjee, S/o late S. N. Bhattacharjee
4. Ram Samir Kar, S/o Late Ramananda Kar

... Applicants

VS

1. Union of India service through the Secretary, Ministry of Communication, Deptt. of Telecom, 20, Asoka Road, New Delhi-1

2. Director General, Deptt. of Telecommunications, Govt. of India, 20, Ashoka Road, New Delhi-1

3. Chief General Manager, Calcutta Telephones, Telephone Bhawan, 34, B.B.D. Bag, Calcutta

4. Asstt. General Manager (Staff), Calcutta Telephones, 8, Bentick St., Calcutta-1

5. Asstt. General Manager (Legal Cell), Calcutta Telephones, 34, B.B.D. Bag, Calcutta

6. Asstt. General Manager (St-I), Calcutta Telephones, Office of the C.G.M., Calcutta Telephones, 8, Bentick St., Taher Mansion Calcutta-1

... Respondents

For the Applicants : Mr. Samir Kr. Ghosh, counsel

For the Respondents : Mr. B. K. Chatterjee, counsel

: : Date of order: 09 -01-2003

O R D E R

A. Sathath Khan, JM

The applicants have approached this Tribunal to direct the respondents to cancel the memos dated 15.4.97 and 28.4.97, Annexures 'C' and 'D' to the OA and also to direct the respondents to accord the benefit of the higher pay scale of Rs.1600-2660/- to the applicants as Draftsman Gr.I after completion of 8 years of service in the grade of Draftsman Gr.II in the scale of Rs.1400-2300/- in terms of the judgment and order passed in OA No.1077/94 on 3.7.96.

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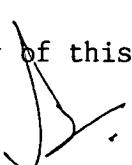
2. When the matter was taken up for final hearing both the learned counsel for the applicants and for the respondents admitted that in similar matters the Apex Court has passed an order dated 16.4.93 in SLP No. CC19204/93 to safeguard the interest of both the parties as follows :

"We do not like to interfere in the order passed by the Tribunal at the behest of the Respondent's Association, but however, Mr. G.D. Gupta, appearing for the Association has made a statement that anybody who seeks to receive the benefit under the impugned order should give a written undertaking that in the event of the stand of the Central Government ~~is~~ ultimately upheld in the litigation and that they are not entitled to the parity of the pay scales and whatever amount they have received pursuant to the direction issued by the Tribunal, they should refund the amount unconditionally. We find that the stand taken by the Association is fair and just. Accordingly, we hold that any employee who receives the benefit of higher pay and allowances pursuant to the direction or order of the Tribunal should refund the amount received thereunder in the event that the stand of the Central Government is upheld in the litigation."

It is also admitted by both the parties that pursuant to the order passed by the Hon'ble Supreme Court, as stated above, the respondents have issued an order dated 23.8.93 which reads as under :

"7. The revision of scales of pay as ordered in para 2 above is subject to the condition that those Draughtsmen who receive such monetary benefits on the revision of pay shall give an undertaking in writing that they will refund the amount received on such revision in case the LPA No.109/84 pending in the Division Bench of Delhi High Court (UOI vs Dharam Vir Sahadev and 2 others) is decided in favour of the Government. This stipulation has been laid down by the Hon'ble Supreme Court of India while disposing of the SLP filed by the Department in the above case vide Supreme Court order dated 16.4.1993 in CC19204/93."

Accordingly, we direct the respondents to extend similar benefit to the applicants herein subject to the fulfilment of the conditions laid down by the Supreme Court by its order dated 16.4.93 and accepted by the respondents by their order dated 23.8.93 extracted above within a period of four months from the date of receipt of a copy of this order. There will be no order as to costs.


(A. Sathath Khan)

MEMBER (J)


(S. Biswas)

MEMBER (A)