

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 54 of 2007

Tuesday, this the 11th day of September, 2007

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

N.I. Karthiyani,
W/o. T.C. Karuppan,
Kattithara House, K.C. Joseph Road,
Panampilly Nagar, Cochin – 682 036

... Applicant.

(By Advocate Mr. C S G Nair)

v e r s u s

1. Protector of Emigrants,
Mercy Estate, M.G. Road,
Ravipuram, Cochin – 15.
2. Protector General of Emigrants,
Ministry of Overseas India Affairs,
Satya Marg, Chanakyapuri,
New Delhi : 21
3. Union of India, represented by
The Secretary,
Ministry of Overseas India Affairs,
Akbar Bhavan, Satya Marg,
Chanakyapuri, New Delhi : 21
4. Pay & Accounts Officer,
DGET – II, CTI Campus,
Guindy, Chennai : 600 032

... Respondents.

(By Advocate Mrs. K. Girija, ACGSC)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant is working as Part-time Sweeper since 31.12.1987 in the Office of the Protector of Emigrants, Cochin and her duty hours are from 9.30 a.m. to 2.00 p.m., except Sundays. She is being paid a sum of Rs. 529/- as wages.

2. A similarly situated Part-time Sweeper in the Office of the Protector of Emigrants, Trivandrum, Smt. M. Fathima Beevi filed O.A. No. 1588/98 before this Tribunal claiming higher rate of wages and this Tribunal vide Annexure A/1 order dated 22.03.2001 allowed the same. Para 5 of the O.A. reads as under:

"5. In the result, in the light of what is stated above, the application is disposed of setting aside Annexure A/2 with consequential benefits and directing the respondents to pay to the applicant the wages as applicable to the Part Time Casual Labourers of the Central Government offices with identical working hours to the applicant with effect from 31st January, 1996, i.e. the date of the impugned order. We also direct the 4th respondent to have a work study regarding sweeping, scavenging and other similar work of the Office of the third respondent held by a competent officer and to refix the working hours of the applicant accordingly. The entire exercise as directed above shall be held and completed and necessary orders issued within a period of four months from the date of receipt of a copy of this order. There is no order as to costs."

3. Vide order dated 12.09.2001, the aforesaid order of the Tribunal was religiously implemented. The applicant has been claiming the same on the strength of the aforesaid order vide representation dated 16.12.1999, but the same was not so far considered. Her request was renewed a number of times as seen from Annexure A/4 letter dated 3.2.2006.

4. The respondents in their counter has stated as under:

"It is humbly submitted that the proposal for pay revision in respect of the applicant is actively under consideration of the Ministry. The proposal is presently under consideration of the Integrated Finance Division (IFD, for short) of the Ministry pending their concurrence. The concurrence of the IFD has not been accorded so far because of non-availability of certain documents such as the terms and

conditions under which the applicant has been appointed in the year 1987. The applicant has also not submitted documents relating to her appointment in this office. Once the financial concurrence is received the applicant will be paid accordingly. It is respectfully submitted that the Office of the 3rd respondent has directed the 1st respondent to forward records of the monthly wages paid to all the staff including the applicant from January, 1996 onwards and the 1st respondent has done the same. The arrears due to the applicant have been worked out with effect from 31.01.1996. It is submitted that only after the IFD gives concurrence on the basis of the documents furnished, pay revision in respect of the applicant can be considered."

5. Arguments were heard and documents perused. So far as the two parties are concerned, they are in agreement with all; others that is how the first respondent was directed to forward the records of monthly wages paid to all the staff including the applicant from January, 1996 onwards which was properly done. Even the arrears due to the applicant have been worked out with effect from 31.1.1996. It is purely on account of IFD that the matter is to be brought before this Tribunal.

6. Law on the subject is very clear. Pay Commission's recommendations in para 126.5 referring to various decisions of the Apex Court emphasized that identical situated persons should not be forced to approach the Court for the relief which others have got. For the purpose of reference, para 126.5 is extracted below:

"We have observed that frequently, in cases of service litigants involving many similarly placed employees, the benefit of judgments is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation.

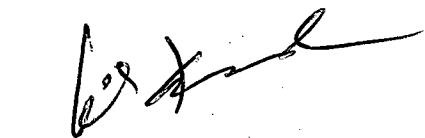
It also runs contrary to the judgment given by the Full Bench of the Central Administrative Tribunal, Bangalore in the case of C.S. Elias Ahmed and others vs UOI and others (OA 451 and 541 of 1991), wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh vs UOI (1992) 19 ATC 94 (SC) dated 20-07-1988; K.I. Shepherd vs UOI (JT 1987 (3) 600); Abid Hussain v s UOI (JT 1987 (1) SC 147) etc., Accordingly we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing the other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of government employees is concerned and not in matters relating to a specific grievance or anomaly of an individual employee."

7. Despite the above, if IFD stands in the way, the same amounts to a deliberate negligence on the part of IFD. Such an attitude should not be allowed to perpetuate. The respondent No.3 under whom the IFD is functioning may, therefore, ensure that the matter is cleared through IFD and the entitled wages be paid to the applicant within a period of four weeks from the date of communication of this order. The terms and conditions for any part-time sweeper being one and the same, and since the applicant is considered for higher wages from a date posterior to 1995 and all the spade work has already been prepared by the first respondent, the IFD can well clear the file on the basis of the information already available. After all, when respondent No. 1 works out the dues, he would have certainly ensured that the applicant is entitled to the same. IFD's insistence for terms and conditions as of 1987 appear to be superfluous.

8. With the above direction, the O.A. is allowed. In case the amount is not paid within four weeks as directed above, the applicant shall be entitled to a lumpsum interest of Rs. 5000/- which may have to be recovered from the erring officers responsible for non-payment within the time stipulated as herein above.

9. No costs.

(Dated, the 11th September, 2007)



Dr. K B S RAJAN
JUDICIAL MEMBER

CVR.