

Central Administrative Tribunal Lucknow Bench Lucknow

CCP No. 32/2008 in O.A. 462/2004

A.W.

CCP No. 34/2008 in O.A.456/2001

This, the 14th day of September, 2009

Hon'ble Ms. Sadhna Srivastava, Member (Judicial)
 Hon'ble Dr. A. K. Mishra, Member (Administrative)

CCP No. 32/2008 in O.A.No. 462/2004

1. Dr. Sudha Saxena aged about 51 years d/o (late) Sri S.P.Saxena resident of 694-695, II Street, Rajendra Nagar, Lucknow .
2. Malki Lal Bajpai aged about 47 years son of Sri Radhey Lal resident of B-156, Awas Evam Vikas Colony, Sitapur.
3. Gopal Singh Nayal aged about 42 years son of (late) Sri Amar Singh resident of 75, Awas Evam Vikas Colony, Lakhimpur.
4. Kamla Kant Shukla, aged about 51 years son of Sri Rajendra Nath Shukla, resident of A-524, Awas Evam Vikas Colony, Sitapur.
5. Santosh Kumar Shukla aged about 49 years son of Sri Ram Chandra Shukla resident of Village Karkhila, Post Office- Bhareli, District- Sitapur.
6. Jag Jivan Prasad aged about 50 years son of (late) Sri Tulsi Ram Dixit, Resident of Hata Kaptan Habibpur, Sitapur.
7. Javed Fahim Farooqui, aged about 48 years son of Sri Fahim Ahmad Farooqui, Sitapur.
8. Mukesh Kumar Tiwari aged about 50 years son of Sri Surendra Kumar Tewari, resident of Gali Panditan Qasba Bah, District- Agra.
9. Shushil Kumar Vaish aged about 49 years, son of late Sri Jugal Kishore Vaish resident of House No. 829, Lalbagh, Sitapur.
10. Jitendra Kumar aged about 45 years son of Sri Dwarika Prasad resident of C-152, Awas Evam Vikas Colony, Sitapur.
11. Dr. Madhu Gupta aged about 49 years wife of Sri Pankaj Kumar (d/o Sri S.D. Gupta, resident of 102, Civil Lines, Sitapur.
12. Dr.Subhash Chandra Mishra, aged about 43 years son of (late) Sri Brahma Dutt Shiromani, resident of 643 N/44, Nayak Nagar Colony, Lucknow.
13. Indra Pal Maurya aged about 52 years son of Sri Baldeo Prasad Maurya resident of village Tipona Post Office- Humayunpur, District- Sitapur.
14. Awadhesh Kumar Verma aged about 54 years son of Sri Shyam Sunder Verma resident of 45/354, Nai Basti Tahsil Kothi- Sitapur.
15. Awadhesh Dixit, aged about 49 years son of (late) Sri Tulsi Ram Dixit, resident of Hata Kaptan Habibpur, Sitapur.
16. Ram Asrey aged about 51 years son of Sri gurdeen resident of Village Siktiha, Post Office- Kenwa Khera, District- Sitapur.
17. Babbu aged about 41 years son of (late) Sri Ramjani, resident of Mohalla Civil Lines, Sitapur.
18. Nand Kishore Yagyik, aged about 45 years son of (late) Ram Saran Yagyik, resident of village and Post Oran, District- Banda.
19. Dr. Kinshuk Tripathi aged about 43 years son of Dr. Ram Pher Tripathi, resident of B-5/4, Balda Road Colony, Nishatganj, Lucknow.
20. Ranjan Bhattacharya, aged about 43 years son of (late) Sri Anant Bhattacharya, resident of 209, Ravindra Nath Tagore Road, Kolkatta working in DRC, Jagaihpur, Sultanpur.
21. Shiv Kumar Gupta aged about 47 years son of (late) Sri Bhagirathi Gupta, resident 51 Bairooni Khandak Model House, Lucknow.
22. Ram Kishan Saroj, aged about 48 years, son of (late) Sri Moti Lal Saroj, resident of Village and Post Chitamanpur Patna, Kunda Pratapgarh.
23. Suresh Kumar Singh aged about 45 years son of Sri Diwakar Singh resident of Village Khanipur, Post Office Bhaulu Baxi Ka Talab, Lucknow.
24. Atul Kumar aged about 42 years son of Sri Hira Lal resident of Laharpur, District- Sitapur.

25. Dalla Ram aged about 42 years son of Sri Jagan Nath resident of Village and Post Bholi, Baxi Ka Talab, Lucknow.
26. Surendra Kumar Bajpai aged about 47 years son of Sri Ganga Deen Baghel, resident of village Tulsanpur, Post Office Parsehra, District- Sultanpur.
27. Mukhlal aged about 37 years son of Sri Mihi Lal, resident of Village and Post - Harimaun, Jagdishpur, District- Sultanpur.

Applicants

By Advocate: Sri Manish Mishra for Sri R.B. Pandey

Versus

1. Sri Krishna Murari Acharya, IAS, Secretary to the Govt. , Ministry of Social Justice and Empowerment, Shastri Bhawan New Delhi.
2. Smt. Sunita Singh, Project Director/ Deputy Chief Commissioner, District Rehabilitation Centre, Ministry of Social Justice and Empowerment, Govt. of India, Sarojini House, 6- Bhagwan Das Road, New Delhi.
3. Shri Shailes Krishna, Principal Secretary, Viklong Kalyan Vibhag, Civil Secretariat, Lucknow.
4. Sri Rakesh Kumar, Dist. Rehabilitation Officer, DRC, Sitapur.
5. Sri Madhurendra Kumar , District Rehabilitation Officer, DRC Jagdishpur, District- Sultanpur.

Respondents

By Advocate: Sri S.P..Singh for respondents No. 1 and 2
Sri A.K.Chaturvedi for respondents No.3 and 4

CCP No. 34/2008 in O.A. No.456/2001

1. Raj Kumar Singh aged about 41 years son of Sri Mahabir Singh, r/o 307, Ghooramau Bungla, Sitapur.
2. Rakesh Kumar aged about 49 years son of Sri Kailash Nath Pandey, r/o 128, Loharbath, Sitapur.
3. Saroj Kumar Bajpai aged about 48 years son of Sri Suresh Chandra Bajpai, r/o Durgapuru Colony, Near Railway Station Biswan, Post and Tahsil Biswan, District- Sitapur.
4. Kishori Lal aged about 51 years son of (late) Sri Pooran Lal r/o Adarsh Nagar, Sector 9, Near Anand Medical Store, Lakhimpur Road, Sitapur.
5. Shiv Ram Maurya aged about 47 years son of (late) Sri Ram Swaroop r/o Mohalla Shri Nagar Colony, Khoobpur, District- Sitapur.
6. Balak Ram Mishra aged about 47 years son of (late) Sri Ram Anwar Mishra, r/o village Saraiyan Mainasi, District- Sitapur.
7. Narendra Kumar Shukla aged about 43 years son of (late) Sri Raja Ram Shukla r/o Mohalla Shekh Sarain , Biswan district- Sitapur.
8. Shrawan Kumar Singh aged about 45 years son of Sri Narinam Singh r/o House No. 411, Ghoora Mau Bungla, Sitapur.
9. Rana Shankar Dwivedi aged about 47 years son of Sri Badri Prasad Dwivedi r/o Village and Post Uncha Khera Kalan, District- Sitapur.
10. Ram Lakhan Mishra aged about 37 years son of Sri Ram Adhar Mishra r/o Village and Post Saraiyyan Mainasi, District- Sitapur.
11. Sri Manoj Kumar Tiwari aged about 43 years son of (late) Sri Bhagwan Bux Tewari, r/o Adarsh Nagar, Sector-1, Sitapur.
12. Shiv Shankar Dixit, aged about 43 years son of (late) Sri Visheshwar Dayal Dixit, r/o Ambikapur Adarsh Nagar, Sitapur.

Applicants

By Advocate: Sri Manish Kumar Mishra for Sri R.B. Pandey

Versus

1. Sri Krishna Murari Acharya, IAS, Secretary to the Govt. , Ministry of Social Justice and Empowerment, Shastri Bhawan New Delhi.

2. Smt. Sunita Singh, Project Director/ Deputy Chief Commissioner, District Rehabilitation Centre, Ministry of Social Justice and Empowerment, Govt. of India, Sarojini House, 6- Bhagwan Das Road, New Delhi.
3. Shri Shailes Krishna, Principal Secretary, Viklong Kalyan Vibhag, Civil Secretariat, Lucknow.
4. Sri Rakesh Kumar, Dist. Rehabilitation Officer, DRC, Sitapur.

Respondents

By Advocate: Sri S.P. Singh for respondents No.1 and 2.
Sri A.K. Chaturvedi for respondents No.3 and 4

ORDER

By Hon'ble Ms. Sadhna Srivastava, Member (J)

The point for decision in both the above CCP is the same. Therefore, we propose to decide them by common judgment.

2. CCP No. 32/2008 has been filed alleging non compliance of order of Tribunal in O.A. No. 462/2004 dated 11.1.2005.

3. CCP No. 34/2008 has been filed alleging non compliance of order of the Tribunal dated 6.4.2005 passed in O.A. No. 456/2001.

4. The orders of the Tribunal in the said two Original Applications read as under:-

(O.A. No. 462/2004)

"In this view of the matter, O.A. stands disposed of with an observation that whatever would be the fate of the SLP filed by the respondents, i.e. Govt., against the order of the Calcutta High Court, shall also govern the fate of the applicant herein. Respondents, after disposal of the SLP, shall take appropriate steps. No costs."

(O.A. No. 456/2001)

"Since the facts of the present case are similar to that of the cases decided by the Calcutta Bench and the O.A. 462/2004 dated 11.1.2005 by this Bench, we feel satisfied as prayed by the applicants that this O.A. can also be disposed of with similar observations as made in O.A. No. 462/2004. We accordingly dispose of the present O.A. with observation that the decision in the pending SLP shall govern the fate of the applicants of this O.A., providing further that further action in the matter shall be taken by the respondents in accordance with the decision rendered in the SLP by the Hon'ble Supreme Court."

5. The background facts are that the Union of India floated a scheme for rehabilitation of disabled people in 1983. Pilot projects were started under which centres were established in several States of the country including West Bengal, Karnataka and U.P. The project Coordinators of Rehabilitation Centres were the officers of State Govt. They selected the employees for such centres. Initially the Central Govt. funded the project partially or wholly but with effect from 1.4.2006, no budgetary provision was made by Central Govt. It created unrest amongst the staff. The employees in West Bengal filed O.A. before Central Administrative Tribunal, contending that they being the employees of Central Govt., the terms and conditions

of services applicable to Central Govt. should apply in their cases also. The Tribunal recorded a finding in favour of employees holding that they were Central Govt. employees. A writ petition filed by Union of India against the findings of Tribunal in High Court of Calcutta was also dismissed. The Union of India filed SLP before Supreme Court. The SLP has been decided by judgment and order dated 10.11.2006. The Apex Court did not agree with the findings of the Central Administrative Tribunal as also the Division Bench of High Court, Calcutta.

6. The Apex Court, has passed the following order invoking power under Article 142 of the Constitution:-

"In a case of this nature, however, we think it expedient to invoke our jurisdiction under Article 142 of the Constitution of India. The Central Govt. has categorically stated that those employees who would opt for employment under the Central Govt. may be accommodated in its ongoing projects. Pursuant thereto or in furtherance thereof, the concerned employees who have affirmed affidavits showing inclination to serve any project under the Central Govt., may be absorbed by it. Services of those employees may be utilized by the Central Govt. in any of its project. They would, however, be continued to be paid salaries on the same scale of pay. Their experience may also be considered for the purpose of determination of their seniority, subject of course to any rule which is in operation of the field. All other financial benefits including those of superannuatory benefits should be protected. It is, however, clarified that such employment under the Central Govt. would be temporary and personal posts which would come to an end with the retirement of the concerned employees.

Similarly those respondents who have opted for their employment with the State of West Bengal or the State of Karnataka, as the case may be would be absorbed by the States of West Bengal, as the case may be, on the same terms and conditions as referred to hereinbefore."

7. The applicants, consequently will remain as employees of the State Govt. unless they opt otherwise. A letter of U.P. Govt. as in CCP 32/2008 contained in Annexure CR-8 dated 30.8.2007 is on record whereby U.P. Govt. has communicated to the Central Govt. its decision to run Distt. Rehabilitation Centres at Sitapur and Jagdishpur. They have further intimated the Central Govt. that none of the employees of these centres opted to work for projects run by the Central Govt. Thus, their grievances if any have to be dealt by the forum having jurisdiction over State employees. Thus, this Tribunal has no jurisdiction over the State employees. Thus, this contempt petitions, are therefore closed. Notices issued are discharged.

(Dr. A.K. Mishra)
Member (A)

HLS/-

(Ms. Sadhna Srivastava)
Member (J)

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Section Officer (Judicial)
Central Administrative
Lucknow Bench. I

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