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OA 604 of 2005

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 604 OF 2005

[Patna, this Friday, the 25th Day of August, 2006].

C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

1. Harinath Pandit, son of Bawelal Pandit, Chowkidar, Carpet Weaving Training-cum-Service Centre, Ambedkar Path, Patna-14.
2. Radha Shyam Prasad, son of Late Maheshwar Singh, Chowkidar, Carpet Weaving Service Centre, Patna-14.
3. Dineshwar Pandit, son of Late Laher Pandit, Chowkidar, Carpet Weaving Service Centre, Patna-14.
4. Rajendra Prasad, son of Shri Barhamdeo Paswan, Chowkidar, Carpet Weaving Service Centre, Patna-14.
5. Ramlal, son of Shri Bhadai Mahto, Chowkidar, Development Commissioner, Handicraft, Carpet Weaving Service Centre, Patna-14.
6. Krishna Murari Lal, son of Late Mathura Lal, Chowkidar, Carpet Weaving Service Centre, Patna-14.
7. Chandrakant Jha, son of Late Bachu Jha, Chowkidar, Carpet Weaving Service Centre, Patna-14.
8. Ram Suresh Sharma, son of Shri Daya Sharma, Chowkidar, Carpet Weaving Service Centre, Patna-14.

By Advocate :- Shri S.N.Singh.APPLICANTS.

Vs.

1. The Union of India through the Secretary, Ministry of Textiles, Government of India, New Delhi.
2. The Development Commissioner [Handicraft], Ministry of Textiles, West Block VII, R.K.Puram, New Delhi.
3. The Regional Director [ER], O/o Development Commissioner [Handicraft], 3rd Floor, MSO Building, A-Wing, DF Block, Salt Lake City, Kolkata-700 064.

4. The Assistant Director [H], O/o Development Commissioner [Handicraft], Carpet Weaving Training-cum-Service Centre, E.S.I Colony, Ambedkar Path, Patna-800 014.RESPONDENTS.
By Advocate :- Shri M.K.Mishra, SSC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Heard both the sides.

2. The same prayer was agitated earlier by the applicants in OA 413 of 2003 which was disposed of by order of this Tribunal dated 12.05.2003. In that application also the applicants, alongwith some others, had prayed for issuance of direction to the respondents to calculate and disburse the overtime allowance to them for eight hours duty for the period commencing from the date of appointment dated 31.12.1990, except for the days of leave and joining time as had been paid to the applicants in OA 558 of 1992 & OA 1794 of 1992 under orders of the Allahabad Bench of the Tribunal.

3. On consideration of the orders of the Allahabad Bench of the Tribunal and the circumstances as obtaining in that application filed by the instant applicants also, this Tribunal recorded following order :-

“Considering the facts and circumstances of the case and also the submissions of the applicants that their cases are squarely covered under the decisions of Allahabad Bench of the Tribunal in OAs mentioned above, I am of the view that appropriate course at this stage would be to refer the matter to the respondents with direction that they treat this OA as a representation, and the same be considered along with representation already submitted by the applicants to them vide Annexure A/6 and A/6[a], and which are still under consideration of the respondents and to dispose them of by issuing reasoned and speaking order as per law and as per the orders of Allahabad Bench of

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the Tribunal in OAs 558/92 and 1794/92, after verifying the details submitted by the applicants and after confirming that their cases are identical with those decided by Allahabad Bench of the CAT in OAs mentioned above.”

4. Therefore, the clear direction to the respondents was to consider the claim of the applicants and to dispose that of by a reasoned and speaking order as per law and as per order of the Allahabad Bench of the Tribunal in OAs 558 & 1794, both of the year 1992, after verifying the details submitted by the applicants and after confirming that their cases were identical with those decided by the Allahabad Bench of the Tribunal.

5. Therefore, the respondents were directed to consider the case of the applicants in a particular light, i.e., with reference to the order passed by the Allahabad Bench of the Tribunal and the official concerned was supposed to verify if the case of the applicants before the Allahabad Bench of the Tribunal in the aforesaid OAs were on the same footing as that of the instant applicants.

6. In pursuant thereto speaking order was passed as at Annexure-10 in which it has nowhere been considered, as was the direction of the Tribunal, as to whether the cases of the applicants was on a similar footing to that of those applicants who had been granted similar relief by the Allahabad Bench of the Tribunal in the aforesaid two OAs. Instead of doing that, the authority, the Regional Director [SE] went on to note the history of filing of the two OAs in the Allahabad High Court, pointing out that those applications were in time, hence allowed. The speaking order thereafter also noted down that the present applicants had not preferred any representation prior to



01.01.1991 from which date the working duty hours of Chowkidar was fixed by the department, holding that since the claim for payment was barred by limitation, the applicants were not entitled to any benefit as granted by the Allahabad Bench of CAT.

7. In so far as the matter of limitation is concerned, that is meant for filing of applications and petitions in the Courts/Tribunals. There is no limitation, nor any has been pointed out, for an official under the Govt. of India to refuse a claim administratively on the ground that it was time barred. This point of a claim being time barred is to be considered by the Courts/Tribunals who have power to condone the same, but it is not within the domain of an executive authority to deny a claim deciding that the claim was time barred in so far as filing of the application before the Tribunal was concerned.

8. When this Tribunal recorded order directing the respondents to consider the claim of the applicants at the touchstone of the order recorded by the Allahabad Bench of the Tribunal in the aforesaid two OAs, the respondents were obliged not to go beyond that. By recording that order, even if the applications were barred by limitation, that would be deemed to have been condoned by this Tribunal.

9. The learned Sr. Standing Counsel has argued that the claim was obviously time barred when OA 413 of 2003 was filed before this Tribunal and that order was passed at the initial stage itself in absence of any one on behalf of the respondents.

10. Even at the admission stage the Union of India or the concerned



departments are being represented by the Sr. Standing Counsel or his colleagues who are Additional Standing Counsels. If the counsel for respondents chose not to appear in a particular case when the case was called out, that would not prevent the Courts/Tribunals to go and decide the matter. In any case, in that matter a particular direction was given to the respondents for consideration. That order obviously has become final. If the respondents had any reservation they could have moved this Tribunal in review application, or could have moved the High Court against the order which does not appear to have been done. That order having become final, it was not open for the respondents to decide whether or not the filing of the application [in the Tribunal] was time barred.

11. This application is, therefore, allowed to the extent that the respondents are directed to record a speaking order strictly in terms of the order of this Tribunal recorded in OA 413 of 2003 dated 12.05.2003, within a period of three months of receipt of copy of this order.

12. This application stands disposed of. No costs.



[P.K.Sinha]/VC

skj.