

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, ('GULESTAN' BUILDING NO.6,
PREScot ROAD, BOMBAY - 1.

ORIGINAL APPLICATION NO.1209/1995

The General Secretary,
Military Engineer Services
Employees' Union, Bombay,
Post Box No.6103, colaba,
Bombay - 400 005 & Another.

... Applicants.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Applicants by Shri M.A.Mahalle.
Respondents by Shri R.K.Shetty.

Tribunal's Order :-

Dt. 8.2.1996

Heard Shri M.A.Mahalle, counsel for the applicants
and Shri R.K.Shetty, counsel for the Respondents.

2. After hearing the counsel for the parties and
on perusal of the written statement we note that
(Ex. R-1) referred to in para 3.6 of the written statement
and (Ex. R-2) referred to in para 3.20 of the written state-
ment have not been filed. Shri Shetty states that the
Annexures ought to have been filed along with the written
statement and seeks time to file the same. Shri Mahalle
states that he has received the written statement, but
was prepared to argue without filing the Rejoinder if the
Court was so inclined.

3. After hearing the parties for some time and
especially after going through (my) Judgment in O.A. 555/93
dt. 31.8.1994 and the speaking order No.PC/90237/4175/E1C
(3)Legal/838-IC/D (Civ-I) dt. 7.12.1994, I prima facie
form a view that the judgment has not been complied

with both in the letter and spirit by the Government. Thus in the operative portion of the judgment I had directed the Respondents to consult Government of Maharashtra. But in para 3.2 of the speaking order passed by the Government it is stated as below:

"The State Government/Union Territories were to identify places fulfilling the above criteria and forward the details to Ministry of Finance (Department of Expenditure) for further examination. This matter came up for discussion in the JCM Meeting also, From the information so received, Wayanad in the State of Kerala satisfied the conditions mentioned above. The position was again got confirmed from the Government of Kerala and on being satisfied, orders were issued granting composite HCA to the Central Government employees working in Wayanad."

From this para, it is not clear as to when exactly the matter came up for decision in the JCM meeting i.e. whether the reference to the JCM meeting ~~is to~~ the JCM Meeting on the basis of which order dt. 29.1.1991 by the Ministry of Finance was issued or whether it was another JCM Meeting. Secondly, the speaking order states that the position was again got confirmed from the Government of Kerala. From this also, it is not clear whether the Government of Kerala were consulted by the Ministry of Finance or Ministry of Defence afresh or whether the reference is to consultation by the Ministry of Finance in connection with the orders dt. 29.1.1991. The most important point is that I had directed the Respondents to consult the Government of Maharashtra on the point and naturally the Government of Maharashtra would have to be consulted afresh in the light of the Judgment of the

Tribunal as to various matters including the matters referred to in para 3.1(a)(b)(c)(d) and (e) in the speaking order. Thus prima facie there has been a failure to comply with the judgment of this Tribunal. I do not have any material to take a view that this non-compliance is wilful and for the present, in the absence of material I take a charitable view that the Respondents have failed to comply with the Judgment because of mis-apprehension of the contents of the same. I would naturally expect the respondent department to read the order as a whole which culminated in the operative part of the order and in particular, to specifically consult the Government of Maharashtra in the light of the Judgment as to fulfilment of various conditions regarding grant of CHCA. After this consultation, and keeping in view the contents of the Judgment the Respondents may pass a fresh speaking order within three months of the communication of the present order.

4. Adjourned to 13.6.1996.

5. A copy of the order may be given to the parties.

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER (A).

B.