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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.P.No.135/99
in

Date of order: 2-3-2000

D.A.No.795/97

Between:

- | | |
|-----------------------------|-----------------------------|
| 1. Prabhakar das | 25. K. Satyanarayana |
| 2. K. Appanna | 26. B. Indu Kumar |
| 3. S. Satyanarayana Murthy | 27. V. Ravi Babu |
| 4. Goka Gnana Sunder Singh | 28. N. Suryanarayana Murthy |
| 5. A. V. Ramana | 29. M. V. Satyalatha |
| 6. K. Nagamani | 30. V. V. Suryanarayana |
| 7. P. Mary | 31. Raja Ram |
| 8. N. V. Ramanamma | 32. M. Pratap Singh |
| 9. Y. Usha Rani | 33. A. Murali |
| 10. K. Udaya Bhaskari | 34. IP. Vanitha |
| 11. K. N. Kashyap | 35. A. Krishna Rao |
| 12. A. Visweswara Rao | 36. Y. Visalakshi |
| 13. K. Vijaya Kumar | 37. P. V. Ramana |
| 14. G. Ganapathi Rao | 38. P. Simhachalam Naidu |
| 15. A. Suresh Kumar | 39. M. Nagasiva Narayana |
| 16. S. Vimala | 40. R. Kama Raju |
| 17. R. J. Madhusudhana Rao | 41. M. Sheshagiri Rao |
| 18. J. V. Narayana Rao | 42. K. Malathi |
| 19. M. Gopala Krishna | 43. S. V. Subramanyam |
| 20. S. Malleswara Rao | 44. S. V. Sarma |
| 21. D. Suryanarayana Murthy | 45. K. Srinivasa Rao |
| 22. K. Chandra Rao | 46. U. Prabhakara Rao |
| 23. B. Venkateswarlu | 47. A. Veerabrahmam |
| 24. P. Varaprasad | 48. S. Surya Rama Rao |

(All the above applicants are working as Sorting Assistants in RMS V Division, Visakhapatnam)

...Applicants

A n d

1. Union of India rep. by its Secretary, Postal Department, New Delhi.
2. The Director General (Postal), CGO Complex, New Delhi.
3. Chief Postmaster General, Andhra Pradesh Circle, Hyderabad.
4. Postmaster General, Visakhapatnam Region, Visakhapatnam.
5. Supdt. of RMS, Railway Mail Service, V Division, Visakhapatnam

...Respondents

Counsel for the Applicants - Mr. N. Saide Rao, Advocate

Counsel for the Respondents - Mr. B. Narasimha Sharma, Sr. CGSC

CORAM:

THE HON'BLE MR. R. RANGARAJAN : MEMBER (ADMN)

AND

THE HON'BLE MR. B. S. JAI PARMESHWAR : MEMBER (JUDL.)

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O r d e r

(per Hon'ble Mr.B.S.Jai Parmeshwar,M(J))

Heard Mr.N.Saida Rao, learned counsel for the applicants and Mr.B.Narasimha Sharma, learned standing counsel for Respondents.

2. The applicants have filed this application praying to proceed against the respondents for non-compliance of the directions given in OA.795/97, dt.27.6.97

The directions given in the OA reads as follows:-

"Accordingly we direct the respondents 1 to 5 or such of them as is competent, to grant the applicants seniority with reference to their initial date of appointment. If the existing seniority position is to be revised that could be done only with notice to the parties who may be affected."

3. The respondents have filed reply stating that the CP is barred by limitation that the order was passed on 27.6.97 that CP has been filed in the year 1999 and that the CP has not been filed within one year from the date of the order that subsequent to the direction given in the OA the Hon'ble Supreme Court in the case of U.O.I. Vs. K.N.Sivada & Others (reported in 1997(7) SCC 30) held that the RTP & SDPA's of the Postal department are not governed by the Casual Labour Scheme, that they have got their own independent scheme for absorption and regularisation, that in view of the decision of the Hon'ble Supreme Court the applicants are not entitled to any benefits as claimed by them in the OA that subsequently the applicants had approached this Tribunal in MA.236/99 for implementation of the directions that the said MA was dismissed on 5.7.99, that when this Tribunal did not entertain the application of the applicants for implementing the directions then the CP filed by them is not maintainable.

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4. The applicants have filed the rejoinder. They submit that they are eligible for the relief claimed in the OA. They rely on the order dt.30.5.94 in OA.1013/93 and order dt.8.2.96 in OA.1410/95 of the Ernakulam Bench of this Tribunal ^{They submit} that the respondent department have implemented the same. They rely on the decision in SLP.No.11313/1987 dt.11.5.88 and Review Petition (Civil) No.86/89, dt.28.3.90 of the Hon'ble Supreme Court of India.

5. The applicants pray for proceeding against the respondents for non-compliance of the directions given in the OA. In fact when the OA was disposed of the decision of the Hon'ble Supreme Court was not reported. Even the decision ^{was} ~~is~~ given in the OA relying upon earlier decision rendered by the Ernakulam Bench of this Tribunal .

6. The Hon'ble Supreme Court considered the decision of the Ernakulam Bench of this Tribunal in the reported case.

7. The decision of the Hon'ble Supreme Court in SLP No.11313/1987 is not on merits. It cannot be treated as a binding precedent (kindly see the decision of the Hon'ble Supreme Court in the case of State of Manipur Vs I.D.Meeti (reported in 1996 SCC (L&S)1181)).


8. When the Hon'ble Supreme Court renders a decision on merits it becomes the law of the land, in view of Art.141 of the Constitution of India. When the Hon'ble Supreme Court did not agree with the order of the Ernakulam Bench of this Tribunal for giving certain reliefs to RTP and SDPA's in the postal department then the respondents are justified in not giving effect to the decision given by this Tribunal in the OA.

9. In fact similar question came up before us in OA.689/97 and batch decided on 31.3.99. In the said batch, we considered in greater detail, whether the reliefs can be granted or not.

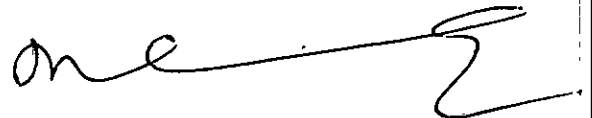
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10. The very fact that the applicants failed to get any directions in the MA for implementing the directions given in the DA suggests that it is not open for them to file this CP for proceeding against the respondents.

11. In that view of the matter the CP is closed.


(B.S. Jai Parmeshwar)
Member (Judl)

213100



(R. Rangarajan)
Member (Admn)

'SA'

Dated: 2nd March, 2000
Order

By
63-00