

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 22nd day of February, 2011

Original Application No. 186/2009

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMINISTRATIVE)

1. Bhoop Singh Yadav s/o late Shri Ram Niwas Yadav r/o A-28, Hasan Khan Mewat Nagar, Alwar (Raj.) at present posted as Sanitary Inspector NICD, Alwar.
2. Satya Prakash s/o Shri Om Prakash at present posted as Sanitary Inspector, NICD, r/o C-2/150, Yamuna Vihar, New Delhi.
3. Ashok Kumar Sharma s/o Shri Rameshwar Dass Sharma, at present posted as Sanitary Inspector, NICD A-14/3, Yadav Nagar, Delhi.
4. Narinder Kumar s/o Shri Chhotu Ram at present posted as Sanitary Inspector, NICD, F-61, Gali No.1, Ganga Vihar, Delhi.

.. Applicants

(By Advocate: Mr. Hukam Chand)

Versus

1. The Union of India through Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi.
2. The Director General, Directorate General of Health Services, Nirman Bhawan, New Delhi.
3. The Director, National Institute of Communicable Disease (Directorate General Health Services), 22, Sham Nath Marg, Delhi.

... Respondents

(By Advocate: Mr. R.G.Gupta)

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ORDER (ORAL)

This is second round of litigation. Earlier two OAs i.e. OA No.86/2006 and 449/2006 were filed by the applicants before the Principal Bench, New Delhi with prayer that the respondents may be directed to quash the impugned order dated 2.1.2006 and to restore the pay scale of Rs. 5000-8000 from 1.1.2006. The aforesaid OAs were disposed of by common order dated 31.1.2007 by quashing the impugned order dated 2.1.2006 to the extent of rolling back the pay scale of Rs. 5000-8000 to Rs. 4000-6000 of the Sanitary Inspectors. It was further held that the impugned order could not have been passed without giving opportunity to the affected parties and admittedly in this case no show-cause notice was issued. However, the respondents were given liberty to roll back the pay scale prospectively after putting the applicant on notice. Pursuant to the aforesaid order passed by the Tribunal in the earlier OAs, show-cause notice was given to the applicants and vide impugned order dated 21.4.2009 (Ann.A/1), the applicants who are Sanitary Inspectors were held entitled for the upgraded pay scale of Rs. 4500-7000. It is this order which is under challenge.

It may be stated that initially OA was filed by four applicants who were parties in OA No.86/06 and 449/06. When the matter was listed on 13.5.2009, this Tribunal passed the following order:-

“.....

In this case, the OA has been filed by four applicants alongwith application for joining together. Admittedly, the impugned order was passed at Delhi out side the territorial jurisdiction of this Tribunal. Applicants Nos. 2 to 4 are serving at Delhi, as such this Tribunal has got no jurisdiction to entertain the matter in respect of applicants Nos. 2 to 4.

Learned counsel for the applicant prays for adjournment to seek necessary instructions in the matter. Prayer granted..."

When the matter was listed on 6.7.2009, this Tribunal passed the following order:-

"....

Heard the learned counsel for the applicant.

Learned counsel for the applicant submits that he is confining this case only to applicant no. 1 i.e. Bhoop Singh Yadav as he is posted at Ajmer, as such this Tribunal has got territorial jurisdiction to entertain the matter.

Issue notices to the respondents confining to applicant No.1 only returnable within a period of four weeks. In the meanwhile, the respondents may file reply.

The question whether on the principal of judicial propriety, the matter can be entertained by this Tribunal when applicant has initially submitted Original Application before the Principal Bench and Principal Bench has decided the matter vide its judgment dated 31.01.2006 (Annexure A/5) which form basis to challenge impugned order dated 21.04.2009 (Annexure A/1) shall be decided at appropriate stage and after hearing the respondents..."

2. The respondents have filed reply. In the reply, the respondents have stated that the impugned order dated 21.4.2009 is perfectly just and legal. It is further stated that except Shri Bhoop Singh other applicants had filed OA No.1440/09 in the Central Administrative Tribunal, New Delhi for grant of same relief. As such, the present OA is liable to be dismissed with exemplary costs.

3. The applicant has filed rejoinder. The fact that other applicants who were party in OA No.86/06 have filed OA No.1440/09 before the Principal Bench for the same cause of action has not been disputed by the applicant. However, it has been

442

stated that applicant has not filed any OA before the Central Administrative Tribunal, New Delhi.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

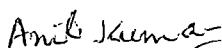
5. From the order dated 13.5.2009 and order dated 6.7.2009, it is clear that the impugned order Ann.A/1 has been passed by the authorities at Delhi, thus the sole applicant i.e. Shri Bhoop Singh Yadav could have challenged the impugned order before the Principal Bench at New Delhi but at the same time Shri Bhoop Singh who is posted at Ajmer could have also challenged the impugned order Ann.A/1 before this Tribunal having territorial jurisdiction.

6. The sole question which requires our consideration in this case is whether the OA filed by the applicant should be entertained especially when the impugned order Ann.A/1 has been passed pursuant to the OA filed by the present applicant as well as other applicants before the Principal Bench. We are of the view that it will not be proper for us to entertain this OA on the ground that the impugned order was passed pursuant to the judgment rendered by the Principal Bench which issue is already under consideration before the Principal Bench in OA No.1440/09 and in case this OA is entertained and decided by this Bench, there may be possibility of passing contradictory judgments by this Bench as well as by the Principal Bench. That apart, once the applicant has chosen a forum by agitating the matter before the Principal Bench by filing OA No. 1440/09⁴⁴⁹¹⁰⁶ judicial propriety demands that impugned order passed pursuant to the direction given by the Principal Bench in the

earlier OA should have been challenged before the Principal Bench. When the learned counsel for the applicant was confronted with the aforesaid proposition, the learned counsel submits that the present OA can be disposed of at this stage with a direction to the respondents to give the benefit of the judgment involving same issue to be passed by the Principal Bench in OA No.1440/09, in case relief to the applicant in the aforesaid OA is granted by the Principal Bench instead of disposing of the OA with liberty reserved to the applicant to file appropriate application before the Principal Bench for impleading as one of the applicants in the aforesaid OA.

7. In view of what has been stated above, we are of the view that the present OA can be disposed of at this stage with direction to the respondent to consider case of the applicant in accordance with the decision to be rendered by the Principal Bench in OA No. 1440/09, in case relief is granted to the applicant in that OA, without dragging the applicant to further litigation. Ordered accordingly.

8. The OA shall stand disposed of in the light of the observations made above. No costs.


(ANIL KUMAR)
Admv. Member


(M.L.CHAUHAN)
Judl. Member

R/