

## CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.No.060/01055/2014

Decided on: 20.11.2014

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

1. Jaswinder Singh s/o Sh. Amrik Singh, Work Munshi
2. Surinder Pal Singh s/o Sh. Inder Singh, Work Inspector
3. Surmukh Singh s/o Sh. Sh. Bhagat Singh, Work Inspector
4. Kali Bahadur s/o Sh. Pardam Bahadur, Work Munshi
5. Gurdyal Singh s/o Sh. Milkhi Ram, Work Munshi
6. Baljit Singh S/o Sh. Achhar Singh, Work Mistri (Retd.)
7. Mam Raj S/o Sh. Bachna Ram, Work Munshi
8. Satish Chander S/o Sh. Bhagwati Parshad, Work Munshi
9. Subhash Chander s/o Sh. Nek Ram, Work Munshi
10. Harbhajan Singh s/o Sh. Garib Dass, Work Munshi
11. Ramesh Chander s/o Sh. Swaran Chand, Work Munshi
12. Khan Bahadur s/o Sh. Munshi Khan, Work Munshi
13. Gauri Shankar s/o Sh. Gurdas Ram, Work Munshi
14. Anil Kumar Bansal s/o Sh. Subhash Chand, Work Inspector
15. Bhagwan Dass s/o Sh. Gulzari Lal, Work Munshi
16. Tek Chand S/o Sh. Amar Nath, Work Munshi

17. Ram Paul S/o Sh. Amar Nath, Work Munshi
18. Malkiat Singh s/o Sh. Swarn Singh, Work Munshi
19. Inderpal Singh s/o Sh. Bakhshish Singh, Work Munshi
20. Ranbir Singh S/o Sh. Darshan Singh, Work Munshi
21. Kewal Krishan S/o Sh. Khushi Ram, Work Munshi
22. Suman Kumar S/o Sh., R.K. Chug, Work Munshi
23. Didar Singh s/o Sh. Walati Ram, Work Munshi
24. Naresh Kapoor S/o Bishan Nath, Mortar Mate
25. Charan Singh S/o Tara Singh, Work Munshi
26. Gurmukh Singh S/o Sh. Rattan Singh, Work Munshi

(All the applicants are working in the o/o Executive Engineer, Construction Project Division No. 2 & 3, UT Chandigarh).

Applicants

By: Mr. Barjesh Mittal, Advocate.

Versus

1. Union Territory, Chandigarh Administration through its Finance Secretary-cum-Secretary Engineering, U.T. Civil Secretariat, Deluxe Building, Sector-9/D, Chandigarh.
2. Chief Engineer, Union Territory, Chandigarh Administration U.T. Civil Secretariat, Deluxe Building, Sector-9/D, Chandigarh.
3. Executive Engineer, Construction Project, Division No. 2 ®, U.T. Civil Secretariat, Deluxe Building, Sector-9/D, Chandigarh.



4. Executive Engineer, Construction Project, Division No. 3, Sctor-16, Chandigarh.
5. Roop Lal Mortar Mte S/o Sh. Soorat Ram, C/o Sub Divisional Engineer, under C.P. Division No.3, Secretariat Sub Division, Punjab Civil Secretariat, Sector-1, Chandigarh.
6. Manstinder Singh, Work Munshi, C/o Sub Divisional Engineer, Const. Sub Division No. 2 ®, under C.P. Division Nso.1, Addl. Offices Building, Sector-9D, Chandigarh.

... Respondents

**ORDER**  
**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**

1. The applicants have filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, for stepping up of their pay at par with their technically qualified juniors including Respondents No. 5 and 6 from the date the said higher pay scale has been granted to them on account of being possessing the ITI/Diploma qualification, on the principle of equal pay and equal work etc. In support thereof reliance is also placed on some judicial pronouncements.
2. The applicants have preferred a representation dated 1.7.2013 (Annexure A-13) for grant of relief asked for by them upon which no decision has yet been taken by the addressed quarters despite reminder

letters sent by the subordinate office vide letters dated 3.10.2013 (Annexure A-14) and 23.10.2013 (Annexure A-15).

3. On being pointed out that the applicants were expected to have at least waited for six months from the date of submission of representation and as such the instant Original Application is pre-mature, learned counsel for the applicants submitted that the ends of justice would be met if the authorities are given a liberty to take a conscious decision as per rules and law on the pending claim of the applicants within a fixed

time frame.

4. We may notice here that if an effective departmental remedy is available to an aggrieved person, he or she should avail of the same instead of rushing to this Court. As per Section 20 of the Administrative Tribunals Act, 1985, there is a bar on entertaining an Original Application if departmental remedy is not exhausted by the applicant. Hon'ble Supreme Court of India in the case of S.S Rathore v. State of M.P., AIR 1990 SC 10 (rendered by Seven Judges Bench), has made it clear that availing of remedies available under the Service Rules is the condition precedent to maintenance of Original Applications under the Administrative Tribunals Act, 1985.

It is settled proposition of law that when a legal notice is sent by an employee for claiming his right, the claim has to be considered objectively by department by passing a reasoned and speaking order. In

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this context, our own jurisdictional High Court in the case titled **Satbir Singh Versus State of Haryana** reported as 2002 (2) SCT, 354 issued directions for disposal of such notices/representation. The said directions are prescribing the manner in which State should react and respond to the legal notice, which are reproduced hereunder:-

"18. Further, we are of the considered view that the State must react and respond to a legal notice/representation served by a person, particularly its employee, within a reasonable time. There are two obvious advantages of such action. Firstly the employee would know how and for what reasons he is being denied the benefit/relief, and secondly, the reasoned version of the State would be on judicial record before the Courts for its judicial scrutiny at the very initial hearing. We must notice with appreciation that the learned Advocate General, Haryana, not only supported the issuance of such directions but also brought to the notice of the Court that the Advocate General's office had already taken up the matter with the Government and the Government is expected to deal with the same effectively and expeditiously."

19. Be that as it may, particularly in the afore-referred premises, we still feel that it is the bounden duty of the Court to issue the following directions to the State in the larger public interest and for proper administration of justice: -

(i) Wherever the right of the parties have been settled by a judgment of the Court, the State has taken all remedies available to it in law against the judgment even upto the highest Court of the land and the judgments has attained finality, then the State must accept the judgment and implement it in its true spirit and command. There is implicit obligation on the part of the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.

(ii) The State Government shall as expeditiously as possible in any case not later than four months re-act and respond to a legal notice/representation served upon it by any of its employees in redressal of his grievance/grant of relief, which has been granted to his co-employee similarly situated, in furtherance to the judgment of the Court unless for reasons to be indicated in the reply, the State feels compelled to deny

such relief. Needless to point out that denial must neither be evasive nor intended to circumvent the orders of the Court.

(iii) in the event such an employee is compelled to approach the Court of law, whereupon the court awards interest and/or costs while allowing such a petition, then the expenditure incurred by the State including the costs/interests paid in furtherance to the orders of the Court should be recovered from the erring officer(s).

(iv) The concerned quarters of the Government are expected to work out the details in furtherance to the above directions and issue pervasive but definite instructions to all its departments forthwith to ensure compliance.”

5. The underlined theme of aforesaid direction was to minimize litigation and to at least offer a response on grievances of employees at an expeditious pace. Considering that the claim of applicants is pending with the respondents and unless they take a view on the matter it would not be possible to carry out judicial review of the issue and as such it would be in the fitness of things to let the respondents take a view in the matter in the first instance.

6. There is no need to issue any notice to the respondents at this stage and call for their reply as we are simply asking them to take a view on the pending representation within a fixed time frame and no prejudice would be caused to them more so when a litigant is ordinarily expected to avail of departmental remedy provided under section 20 of the Administrative Tribunals Act, 1985 and a representation is filed, the authorities are expected to take a view thereon expeditiously but in this case no decision has been taken as yet.

7. In view of the above factual scenario and without commenting upon anything on merits of the case, we dispose of this Original Application with a direction to the Competent Authority amongst the respondents to take a view on the representation, Annexure A-13, aforesaid by passing a speaking and reasoned order in accordance with law and rules within a period of two months from the date of receipt of a certified copy of this order, under intimation to the applicant.

8. No costs.

**(SANJEEV KAUSHIK)  
MEMBER (J)**

**(UDAY KUMAR VARMA)  
MEMBER (A)**

Place: Chandigarh  
Dated: 20.11.2014

HC\*