

✓

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...  
**ORIGINAL APPLICATION NO.060/00529/2014 &**

**M.A. 060/01187/2014**

**Chandigarh, this the 20<sup>TH</sup> Day of October, 2014**

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

1. Prem Dass, age 58 years, son of Sh. Bhalkhu Ram, Sub Divisional Engineer (Public Health) Sanitary Installation, Sub division No.2, U.T. Sector 9, Chandigarh.
2. Jaswant Singh, age 58 years, son of late Sh. Bachan Singh, Sub Divisional Engineer (Electrical), Sub Division No.9, Union Territory, Sector 31, Chandigarh.

...**APPLICANTS**

**VERSUS**

1. Union Territory, Chandigarh Administration, through its Administrator, U.T. Civil secretariat, Deluxe Building, Sector 9/D, Chandigarh.
2. Advisor, Union Territory, Chandigarh Administration, U.T. Civil Secretariat, Deluxe Building, Sector 9/D, Chandigarh.
3. Secretary, Engineering, Union Territory, Chandigarh Administration, U.T. Civil Secretariat, Deluxe Building, Sector 9/D, Chandigarh.
4. Secretary, Union Territory, Chandigarh Administration, Department of Personnel, U.T. Secretariat, Deluxe Building, Sector 9/D, Chandigarh.
5. Chief Engineer, Union Territory, Chandigarh Administration, U.T. Civil Secretariat, Deluxe Building, Sector 9/D, Chandigarh.

...**RESPONDENTS**

**Present:** Sh. N.P. Mittal, counsel for the applicants.  
Sh. Arvind Moudgil, counsel for the respondents.

**ORDER (Oral)**

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

1. The present OA is directed against the impugned orders A-1, A1/1, A-2 and A-2/1, with further prayer to allow the applicants

one year extension in service w.e.f. 01.07.2014 till 30.6.2015, keeping in view instructions A-15 to A-19, the judgment passed by this Tribunal A-6 and notification dated 13.01.1992.

2. Learned counsel for the respondents has produced a copy of letter dated 21.8.2014, wherein he has been advised to ask for further time from this Tribunal as the matter is pending with the Department of Personnel, Chandigarh Administration, Chandigarh, for clarification. Hence he requests that he may be granted further time to file written statement in the matter.

3. Learned counsel for the applicants on the other hand submits that an identical issue has already been put to rest on 27.8.2014 in O.A. No.854/CH/2013 titled **K.L. Sodhi Vs. Union Territory & Others.** Following the same, similar matters in O.A. No.1546/CH/2013, O.A. No. 060/00456/2014 and O.A. No.060/00510/2014 have also been disposed of by this Court, therefore, he prays that this O.A. may be disposed of in the same terms. Learned counsel also submits that in subsequent matters, which were disposed of following the K.L. Sodhi's case (Supra), this Court had already noted that as per noting dated 18.9.2014, the matter was taken up with the higher authority but no action has been taken, therefore, a direction has been given to the department to pass fresh order in the matter. Therefore, he prayed that there is no hurdle

to dispose of this OA in the same manner as the respondents have to pass a fresh order, in view of the observations made there under.

4. Learned counsel for the respondents submitted that the authorities will consider and decide the case of the applicant in the light of K.L. Sodhi's case (Supra).

5. Considering the ad idem between the parties, we dispose of the instant OA in terms of K.L. Sodhi's case (Supra) and subsequent orders passed by this Court. Orders at Annexure A-1 and A-1/1 are quashed and set aside. The respondents are directed to decide the case of the applicant in terms of judgment in K.L. Sodhi's case (Supra). The relevant paras of the order are reproduced as below:

"13. The action of the respondents in rejecting the claim of the applicant is also violative of Articles 14 and 16 of the Constitution of India. Although executive instructions do not have the force of law in the sense of not having legislative character, but the Administration is not entitled to act in contravention of or ignore such instructions at its sweet will or whims or fancies, for that would amount to arbitrariness, violative of Articles 14 and 16 of the Constitution of India. It is a well-settled rule of administrative law that an executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on the pain of invalidation of an act in violation of them. This rule was enunciated by Mr. Justice Frankfurter in *Vitarelli v. Seaton*, (1959) 359 US 535: 3 L Ed 2d 1012]" where the learned Judge said:- "An executive agency must be rigorously held to the standards by which it professes its action to be judged .... Accordingly, if dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that

13/

procedure must be scrupulously observed .....This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with the sword' It has been further held that:

"It is indeed unthinkable that in a democracy governed by the rule of law the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimum requirement'. This principle has been applied to myriads of cases involving violation of administrative instructions or guidelines covering not only tenders but other fields."

14. Similar views were expressed by his Lordship P.N. Bhagwati in Dr. Amarjit Singh Ahluwalia v. State of Punjab & Ors., (1975) 3 SCC 503. Thus, once the instructions provide for extension of service in a particular situation and manner, the Administration is bound to act in that particular manner only and not deviate from the same.
15. In the above background, we are left with no other option but to accept the OA. Accordingly the OA is allowed to the extent that the impugned order dated 11.06.2013 is set aside. The matter is remitted back to the respondents to re-consider the claim of the applicant in the light of what we have held above."
6. With the above directions, this OA stands disposed of.

Uday Kumar Varma  
(**UDAY KUMAR VARMA**)  
**MEMBER (A)**

Sanjeev Kaushik  
(**SANJEEV KAUSHIK**)  
**MEMBER (J)**

**Place: Chandigarh.**  
**Dated: 20.10.2014.**  
**'KR'**