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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00849/2014

Order Reserved on 07.04.2015
Pronounced on 10.4.2015

...

CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

- ...
1. Ajay Kumar son of Sh. Sarwan Kumar resident of House No.1164/1, Sector 40-B, Chandigarh-160036.
 2. Paramjeet Kaur daughter of Sh. Gurnam Singh resident of House No.88B, Block B, Sector 30-B, Chandigarh.
 3. Rashminder Singh son of sh. Lakhwinder Singh, House No.386, Phase-9, Mohali.
 4. Anuradha daughter of Sh. Muni Ram resident of House No.1030, Sector-28B, Chandigarh.
 5. Sandeep Singh Bhandari son of Sh. Balwant Singh Bhandari resident of House No.172-I, Sector 41-A, Chandigarh.
 6. Amit Kumar son of Sh. Mohinder Pal resident of house No.4596, Sector-46D, Chandigarh.
 7. Jaswinder Kumar son of Sh. Faquir Chand resident of House No.549, VPO Hallomajra, U.T. Chandigarh.
 8. Anita daughter of Sh. Amresh resident of House No.1631, Sector 22-B, Chandigarh.
 9. Lalita daughter of Sh. Raje Ram resident of House No.569/1, Sector 40A, Chandigarh
- (All are working under Electricity Department, Union Territory, Chandigarh.

... Applicants

Versus

1. Chandigarh Administration through Finance Secretary-cum-Secretary, Electricity Department, U.T. Secretariat, Sector 9, Chandigarh.
2. The Chief Engineer, Department of Engineering, U.T. Secretariat, Sector 9, Chandigarh.
3. The Superintending Engineer, Electricity Operation Circle, U.T. Secretariat, Sector 9, Chandigarh.

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... Respondents

Present: Mr. D.R. Sharma, counsel for the applicants.
Mr. Aseem Rai, counsel for the respondents.



ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

- "8 (i) That the impugned action of the respondents in giving artificial notional breaks in the service of the applicants and re-appointing them by subjecting them to same mode of selection and depriving them the salary for break period/s without any justifiable and legal nexus of object to be achieved, be declared arbitrary and illegal and null and void, in the interest of justice.
- (ii) That the applicants be held entitled to benefit of Circular/s No.15/2009 and 2/2014 duly adopted by the Chandigarh Administration vide Order dated 31.03.2014 and revise the consolidated salary of the applicants as per revised corresponding pay scale and grade pay.
- (iii) That the respondents be directed to allow the applicants to continue in service without any break till the regular appointments are made and the applicants be extended the benefits of Judgments/Orders on the subject matter as detailed in para No.5 of the instant OA.
- (iv) That the respondents be directed to pay the salary to the applicants without deductions for the period of artificial breaks and vacations.
- (v) That the applicants be held entitled to all benefits and reliefs including the salary for the break period/s, age relaxation and preference in the matter of regular selection, in the interest of justice."

2. Averment has been made in the O.A. that the applicants are working as Lower Division Clerk (LDC) on contract on whole time basis against the sanctioned posts pursuant to their appointment by a positive



act of selection i.e. applying being eligible pursuant to newspaper/on-line advertisement and going through the type test, interview process before the duly constituted Selection Committee, medical examination, verification of character and antecedents from Police/District Magistrate etc. Copies of advertisement and documentation of the applicants are appended as Annexure A-9 to A-17 (Colly). A Chart depicting the service particulars of the applicants and the period of break given by the respondents is appended as Annexure A-8. The applicants are being paid consolidated salary against the corresponding pay scale and grade pay. Vide Order No.28/54-IH(7)-2009/14760 dated 30.07.2009 and No.28/54-IH(7)-2010/17836 dated 21.09.2010 the Chandigarh Administration fixed the consolidated salary to be paid to the persons appointed on contract on whole time basis against the sanctioned posts. Thereafter, vide Order No.28/54-IH(7)-2011/5227 dated 22.03.2011, Order No.28/54-IH(7)-2012/17126 dated 07.09.2012, Order No.28/54-IH(7)-2013/22392 dated 09.12.2013, the Chandigarh Administration increased the consolidated salary from Rs.10,000/- to Rs.11,900/-, Rs.13,600/- and Rs.15,700 per month respectively against the Pay Band of Rs.5910-20200 plus Grade Pay of Rs.2000/-. Copies of Chandigarh Administration Order dated 22.03.2011, 07.09.2012 and 09.12.2013 are appended as Annexure A-7, A-6 and A-5 respectively.

3. The Punjab Electricity Board vide Fin. Circular No.15/2009 Office Order No.478/PRC-302/2006 dated 15.10.2009 issued the Regulations called the Punjab State Electricity Board (Revised Pay) Regulations, 2009 (applicable w.e.f. 01.01.2006) enhancing the Grade Pay as mentioned in the General Conversion Table (Annexure A-4). Such Regulations are applicable to the persons appointed on contract basis. These Regulations came to be adopted by the Punjab State Power Corporation Limited (PSPCL, earlier know as PSEB) vide Finance Circular No.2/2014, Office Order no.578/PRC-302/2006/Vol-II dated 24.02.2014 enhancing the grade pay as mentioned in General Conversion Table w.e.f. 01.12.2011 (Annexure A-3). Pursuant to the approval given by the Finance Department, the Chandigarh Administration adopted the PSPCL Finance Circular No.2/2014 dated 24.02.2014 in respect of PSPCL employees working on deputation as well as for UT Cadre employees working in the Electricity Wing of Engineering Department, UT, Chandigarh, who are getting pay scale of PSEB pattern (Annexure A-2).

4. The applicants submitted representation dated 09.09.2014 requesting the respondents to enhance their salary as per the revised Grade Pay of Rs.3400/- against the Grade Pay of Rs.2300/- w.e.f. 01.12.2011 (Annexure A-1). Such representation is without any response. The term of the applicants no.1 to 6 is going to expire on

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24.09.2014 and of applicants no.7 to 9 on 08.12.2014 and the respondents will again be put to same selection process by giving notional breaks in service in an arbitrary and illegal manner. The action of the respondents in giving artificial/notional breaks to the applicants and re-appointing them by subjecting them to same mode of selection and in not extending the benefits of aforesaid Circulars is unjustified and untenable in the eyes of law. Hence this O.A.

5. In the written statement filed on behalf of the respondents it has been stated that the applicants were working as LDC on contract basis in accordance with the terms and conditions in their respective appointment letters, and unequivocally accepted by them on their initial appointment, and they are being paid consolidated salary as fixed by the Chandigarh Administration from time to time. This appointment is purely on contract basis for six months and is terminated automatically after expiry of this period. If the services are required by the respondent Department, they are offered fresh appointment for further six months and so forth. No permanent rights are sought to be vested by virtue of such contractual appointment.

6. The functioning of the Electricity Department, Chandigarh Administration is regulated by the Joint Electricity Regulatory Commission for Goa and UTs as provided in Electricity Act, 2003. As per regulations



notified by the Commission, all expenditure including employee cost is required to be got approved from the Commission. The Commission in earlier tariff order dated 15.04.2013 had passed the following order:-

"Commission is not satisfied with the explanation given by the licensee. The utility was over staffed in 1990-1991, when one employee was catering to only 73 consumers. Even today the physical area of Chandigarh is the same whereas the density of consumers per sq. km. has increased. As of now, one employee is catering to only 199 consumers as show by the Petitioner.

Considering that the All India average number of employees per thousand consumers is 0.40 (i.e. one employee for every 2500 consumers), it can be construed that the Electricity Department of Chandigarh is still overstaffed. Hence the Commission does not consider and does not approve the projected manpower recruitment. However, a few IT, Commercial, Accounts Officers may be considered for recruitment. Action plan for improving efficiency of the existing staff and reduction in existing employee strength shall be submitted in the next ARR and Tariff Petition."

The Commission has given a "Directive" to get the Manpower Study conducted through accredited agency/consultant. The Electricity Department has got the Manpower Study conducted by appointing a Consultant which has been approved by the Commission.

7. The Commission vide tariff order dated 11.04.2014 (Annexure R-2) has allowed the Department to fill up 42 posts of LDC on provisional basis/outsourcing basis, subject to the outcome of decision of Manpower Study/Review petition and accordingly the DNIT is under process for approval of the competent authority. As such the respondent Department does not intend to further extend the contractual appointment

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of the persons such as the present applicants and/or appoint another set of contractual employees in their place.

8. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicants narrated the background of the matter. He also stated that services of some of the applicants had been terminated on 24.09.2014 and others on 08.12.2014, hence he was only pressing for relief clause 8(2) of the O.A. Learned counsel stated that pay on consolidated basis had been disbursed to the applicants from time to time as per orders dated 09.12.2013, 07.09.2012 and 22.03.2011 (Annexure A-5 to A-7) but the claim was being made as per letter Note No.7000/1/6/2000-F&PO(7)/P824 dated 31.3.2014 (Annexure A-2) which had come into effect from 01.12.2011 (Annexure A-3) and hence the applicants were entitled to arrears of pay on this account.

9. Learned counsel for the respondents stated that the applicants were contractual employees and as per the terms of their appointment they had been remunerated on the basis of consolidated pay as per circulars at Annexure A-5, A-6 and A-7. He drew attention to para 2(2)(f) of circular dated 15.10.2009 (Annexure A-4) wherein it was made clear that this order did not relate to persons employed on contract basis except when the contract provides otherwise. The applicants were only

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entitled to pay on consolidated basis as per the rates prescribed by the Chandigarh Administration from time to time and hence there was no merit in this OA.

10. We have carefully considered the pleadings of the parties, material on record and arguments advanced by learned counsel. A plain reading of Circulars No.15/2009 dated 15.10.2009 (A/4) and 2/2014 dated 24.02.2014 (A/3) adopted by Chandigarh Administration makes it clear that the applicants who are contractual employees would not be entitled to their pay being fixed on the basis of pay band as this order was only relevant to the persons appointed on deputation and those holding regular appointments while the applicants were appointed on contract basis to meet short term requirements of the Electricity Department, U.T. Chandigarh and their services have already been terminated. Hence we conclude that there is no merit in this O.A. and the same is rejected.

(DR. BRAHM A. AGRAWAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.

Dated: 10.4.2015.

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