

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.No.060/00262/2014

M.A.No.060/01149/2014

Decided on: 04.09.2014

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

Madhavi W/o Sh. Navdeep Chhabra, R/o #1684, Sector 4, Panchkula, presently working as Assistant Professor, Department of Computer Science and Engineering, Chandigarh College of Engineering and Technology, Sector-26, Chandigarh.

Applicant

By : Mr. Rohit Seth, Counsel for applicant.

Versus

1. Union of India through Secretary to Government of India, Ministry of Human Resource Development, Department of Higher Education, New Delhi.
2. Union Territory of Chandigarh through its Administrator
3. Secretary, Technical Education, Union Territory, Chandigarh, Sector-9, Chandigarh.
4. The Secretary, Department of Personnel, Union Territory, Chandigarh, Sector-9, Chandigarh.
5. Principal, Chandigarh College of Engineering and Technology, Sector-26, Chandigarh.
6. The Secretary, Department of Finance, Union Territory of Chandigarh, Sector-9, Chandigarh.

By : Mr. Rakesh Verma, Advocate.

Respondents

O R D E R(oral)
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

In this Original Application under section 19. of the Administrative Tribunals Act, 1985, the applicant has sought the following reliefs:-

"i). Direct the respondents for extending same benefits to the applicant as granted to the similarly situated employees who had approached this Hon'ble Tribunal vide O.A. No. 905-CH-2011 titled as "Parul Aggarwal and Ors vs. UOI and Ors" decided on 01.01.2012.

ii. Direct the respondents to grant the applicant minimum of pay scale plus admissible Dearness Allowances (D.A) notionally since the date of initial appointment of the applicant and grant her arrears from the date when the arrears have been calculated for similarly situated employees who had earlier approached this Hon'ble Tribunal vide O.A. 905-CH-2011 i.e. arrears for the period of 3 years preceding the date of filing of O.A. No. 905-CH-2011 i.e. arrears of DA for the period of three years as have been calculated for the applicants in O.A 905-CH-2011 along with interest @ 18% p.a. from the date the same was payable till the date of realization.

iii. Impugned order dated 16.12.20134 (Annexure A-5) may kindly be quashed and set aside.

2. In Pursuance of directions contained in earlier round of litigation in **O.A.No.1265-CH-2013** decided on 17.9.2013, the claim of the applicant has been negatived vide order, Annexure A-5, on the sole premise that the applicant was not a party to the decision, benefit of which is being sought for by ⁸ her.

3. In their resistance to the claim of the applicant, the respondents, while not disputing about the fact that the issue stands clinched by decision of this Tribunal in O.A.No. 905-CH-2011 (**Parul Aggarwal & Others Vs. Union of India & Others**) decided on 9.1.2012, submit that since the applicant was not a party in those proceedings and, therefore, she cannot be extended the benefit of the same.

4. Considering the nature of the claim qua fixation of pay which gives her recurring cause of action, M.A. for condonation of delay is allowed and disposed of accordingly in view of dictum of Apex Court in the case of **M.R. Gupta Vs Union of India and others**, 1995 SCC(5) 628.

5. The stand taken by the respondents has to be rejected for the simple reason that the jurisdictional High Court in the case titled **Satbir Singh Versus State of Haryana** reported as 2002 (2) SCT, 354 has issued number of directions for disposal of such notices/representation and grant of benefit of a judgment to similarly situated employees. The said directions are prescribing the manner in which State should react and respond to the legal notice, which are reproduced hereunder:-

"19. Be that as it may, particularly in the aforesaid premises, we still feel that it is the bounden duty of the Court to issue the following

directions to the Stat 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 react 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."

6. The aforesaid directions were issued to the States of Punjab, Haryana and U.T. Administration as well. It is trite law that "those who do not come to court need not be at a disadvantage to those who rushed to here, and if they are otherwise similarly situated they are entitled for similar treatment if by no one else at the hands of the Court." As held in the cases of **Inderpal Yadav v. Union of India**, (1985) 2 SLR 248; **K. I. Shephard and Others v. Union of India**, AIR 1988 SC 686 and **K.T. Veerappa and Others v. State of Karnataka & Others**, (2006) 9 SCC 406]. In **State of Karnataka v. C. Lalita**, (2006) 2 SCC 747 it was held that "service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the Court that would not mean that persons similarly situated should be treated differently". In view of the clear cut finding and directions of Hon'ble High Court qua extension of identical

relief to similarly situated employee, the impugned order, Annexure A-5 has to be negated. Ordered accordingly.

7. In view of the above, the respondents are directed to extend the benefit of decision in the case of Parul Aggarwal (supra) disregarding the fact that she was not a party to those proceedings, within a period of two months from the date of receipt of a certified copy of this order.

8. Disposed of accordingly.

sk
(SANJEEV KAUSHIK)
MEMBER (J)

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

Place: Chandigarh
Dated: 04.09.2014

HC*