

**Central Administrative Tribunal
Principal Bench, New Delhi**

R.A. No. 7/2016 with
MA No. 105/2016 in
O.A.No.3250/2012

New Delhi, this is the 17th Day of March, 2017

Hon'ble Shri V. Ajay Kumar, Member(J)
Hon'ble Shri P.K. Basu, Member(A)

1. Govt. of NCT of Delhi
Through the Chief Secretary
New Sectt. Players Building,
I.P. Estate, New Delhi
 2. The Secretary
Department of Social Welfare & Women
& Child Development
Govt. of NCT of Delhi, GLNS Complex
Delhi Gate, Delhi
 3. The Director
Department of Women & Child Development
Govt. of NCT of Delhi, Canning Lane,
K.G. Marg, New Delhi,
Govt. of NCT of Delhi
-Review Applicants

(By advocate: Ms. Pratima Gupta)

Versus

1. Lov Kumar S/o Shri Ram Kumar
R/o F. No. 811, Regent Block,
Supertech Estate, Vaishali Sector-9
Ghaziabad (U.P.)
2. Nasim Akhtar S/o Md. Shafique
R/No. N-72, Taimpur Nagar
New Delhi
3. Yogesh Sharma S/o Sh. A.L. Sharma
R/o Khasra No. 548, Jhenda Colony, Fatehpuri
New Delhi

4. Prama Pathak S/o Late Sh. B.B. Pathak
R/o B-5, Plot No. 3, Dwarka Sect. 5
Delhi
 5. Vaishnavi Chaturvedi D/o Sh. Ghanshyam Chaturvedi
R/o RZ-A-45, Second Floor, Jeevan Park
Uttam Nagar, New Delhi
 6. Eva Swatantra M/o Kusum Lata,
R/o C-747, Delhi Administration Flats
Timarpur, Delhi
 7. Shashank Singh Tomar S/o Sh. Virendra Singh
R/o D-323, 3rd Floor Nehru Vihar Timarpur
Delhi-110054
 8. Jaya Prakash S/o Sh. Gopal Krishnan,
R/o WZ-17/C, New Ranjeet Nagar,
West Patel Nagar, Delhi-18
 9. Pradeep Kumar S/o Sh. Surender Kumar
R/o E-74, Siddhartha Nagar, Delhi-14
 10. Sadaf Rizvi S/o Sh. Z.A. Rizvi
R/o C-4, Railway Colony, Lajpat Nagar-I
New Delhi-24
- ...Respondents

(By Advocate: Ms. Bimla Devi for Mr. Ajesh Luthra)

ORDER (Oral)

By Hon'ble Shri V. Ajay Kumar, M(J):

Heard learned counsel for both sides.

2. The applicants who are working as Child Welfare Officers on contract basis filed the present O.A. questioning the order dated 17.09.2012 of the official respondents wherein and whereunder the respondents while extending the services of the applicants

stated that "no further extension will be allowed after 30.09.2012".

3. After hearing both sides and after considering the decisions in **Secretary of Karnataka Vs. Uma Devi – (2006) 4 SCC 1**, and **Sonia Gandhi & Ors Vs. Govt. of NCT of Delhi & Ors.** (Hon'ble High Court of Delhi), this Tribunal disposed of the O.A. as under:-

"6. In view of the aforesaid judgment of the Hon'ble High Court of Delhi, we allow this OA and the impugned order is hereby quashed, to the extent that it stipulates, "no further extension after 30.9.2012." The respondents are directed to consider the cases of the applicants in terms of the ratio of the judgment of the Hon'ble High Court of Delhi in Sonia Gandhi case (supra), as they are also similarly situated. Till then, they shall continue the applicants in service.

7. No order as to costs."

4. The respondents in the OA filed the WP(C) No. 7113/2014 against the aforesaid order of the Tribunal. The said WP(C) was disposed of by Hon'ble High Court of Delhi by order dated 04.02.2015 (Annexure A-2) as under:-

"After some arguments, Mr. V.K. Tandon, the learned counsel for the petitioners seeks to withdraw the present Writ Petition with the liberty to file a Review Petition to seek review of the impugned order dated 06.05.2014 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (herein referred to as the 'CAT') in Original Application (in short 'OA') No. 3250/2012 in light of the fact that the petitioner could not draw the attention of the learned CAT to the order dated 02.05.2014 passed by this Court in the Review Petition No. 198/2014 preferred in W.P. (C) NO. 6798/2012, titled as 'Sonia Gandhi & Ors. V. Govt. of NCT of Delhi & Ors.'.

The learned counsel also submits that in the order passed in the Review Petition, this Court explicitly made clear that the directions given in the impugned judgment are relatable to Para-medics working on contract basis in hospitals and institutions established

by the Government of NCT of Delhi and the same would obviously not embrace such projects which are executed by the Government of NCT of Delhi under the centrally funded schemes. The learned counsel thus submits that the ratio of the decision of Sonia Gandhi's case (Supra) would not be applicable to the facts and circumstances of the present case in the light of the clarifications given by this Court in the order passed in Review Petition.

In the light of the above facts, while dismissing the Writ Petition as withdrawn, we grant the liberty to the petitioners to file a Review Petition and while deciding the Review Petition preferred by the petitioners, the learned CAT may also deal with the contentions raised by the petitioner on the merit of the case.

Reserving the said liberty, the present Writ Petition is dismissed as withdrawn. All the pending applications are also dismissed as withdrawn."

5. In terms of the liberty granted as aforesaid by the Hon'ble High Court of Delhi, the respondents in the OA filed the present Review Application, along with M.A. No. 105/2016 seeking condonation of delay of 126 days in filing the R.A.

6. It is the case of the petitioners that this Tribunal while disposing of the OA on 06.05.2014 directed them to consider the cases of the applicants in terms of judgment dated 06.11.2013 of Sonia Gandhi (supra), however, the said judgment was clarified/modified in Review Petition No. 198/2014, on 02.05.2014, and since the respondents could not brought the same to the notice of this Tribunal, the order of this Tribunal may be reviewed to that extent.

7. This Tribunal while disposing of the O.A. No. 3250/2012 on 06.05.2014, only directed the respondents to consider the cases of the applicants in terms of the ratio of the judgment of the Hon'ble High Court of Delhi in Sonia Gandhi case (supra). If any order of any Court, modified/clarified/reviewed/set aside/upheld

by the same Court or by any higher Court, the original order merges with the later order. It is trite that any authority or Court shall consider the facts of any case with reference to the order prevailing as on the date of consideration only but not the earlier order which was already merged/modified/reviewed/clarified.

8. In the circumstances, the delay in filing Review is condoned and the M.A. No. 105/2016 is allowed. However, we do not find any merit in the RA and accordingly the same is dismissed. No costs.

(P.K. Basu)
Member(A)

(V. Ajay Kumar)
Member(J)

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