

Central Administrative Tribunal
Principal Bench
New Delhi

C.P.No.742/2015

In

O.A.No.400/2013

Order Reserved on: 06.12.2016

Order pronounced on 09.12.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

1. Smt. Renu Kapoor,
W/o Shri Vinod Kapoor,
R/o BW-88D, Shalimar apartment,
Shalimar Bagh, New Delhi-110088.
2. Pawan Kumar,
S/o Shri Prem Singh,
R/o H.No.922, Sector-2,
Bahargarh, Distt. Jhajjar (Haryana). .. Applicants

(By Advocate : Shri Yogesh Sharma)

Versus

1. Sh. Sanjay Kothari
Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
North Block, New Delhi.
2. Sh. S. Selvakumar
Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi.

3. Mrs. Padma T.
Principal Registrar,
Central Administrative Tribunal,
Principal Bench, New Delhi. .. Respondents

(By Advocate : Dr. Ch. Shamsuddin Khan)

ORDER

By V. Ajay Kumar, Member (J):

Heard both sides.

2. The applicants filed OA No.400/2013 seeking the following relief:

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not considering and not finalizing the cases of the applicants for extending the benefit of new grade of UDC (NFSG) to the applicants is illegal, arbitrary and discriminatory and consequently pass an order directing the respondents to consider and to grant the new grade of UDC (NFSG) to the applicants by way of extending the benefit of OM dated 22.06.2011 in the grade pay of Rs.4200 in PB-II w.e.f. 22.06.2011 with all consequential benefits including the arrears of difference of pay and allowances with interest.

(ii) Any other relief which the Honble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation.”

3. This Tribunal, disposed of the said OA by its Order dated 21.07.2015, as under:

“6. The learned counsel, while producing an O.M. No.12/2/2015-CS.II(B) dated 18.06.2015, submits that the 1st respondent has passed certain orders having a bearing on the subject matter of the O.A. and that in the counter affidavit, the respondents categorically admitted that the employees of the Central Administrative Tribunal have been treated at par with their counterparts in CSS/CSSS, and therefore, the O.M. may be applied to the applicants also, and accordingly, prayed that the respondents may be directed to pass orders in favour of the applicants. The existence of the said proceedings dated 18.06.2015 is not disputed by the respondents' counsel.

7. In the circumstances, the O.A. is disposed of with a direction to the respondents to take a final view on the claim of the applicants keeping in view the O.M. dated 18.06.2015 and also the averments in the counter affidavit and to pass

appropriate reasoned and speaking orders thereon, in accordance with law, within 90 days from the date of receipt of a copy of this order. No order as to costs."

4. The 3rd Respondent filed a compliance report dated 16.11.2016 by duly enclosing an Order dated 31.03.2016 of the 1st Respondent-DoPT, which was communicated to the applicants vide order dated 04.04.2016, and submitted that they have fully complied with the orders of this Tribunal and accordingly prays for dismissal of the CP.

5. The relevant parts of the said Order dated 31.03.2016, read as under:

"3. Order dated 21.07.2015 was received in this Department on 01.09.2015. Matter was examined & referred to the Department of Expenditure for their comments. Some clarifications were sought from CAT, PB by the Department of Expenditure, which was subsequently provided to them & after examination, observations of Department of Expenditure were received on 30.03.2016.

4. After considering the matter, following situation has arisen.

(i) Seventh CPC in their recommendation in Para 7.14 has stated the following:

"Recently, through a government order similar 'edge in pay' has also been extended to the Upper Division Clerks belonging to CSS in the Secretariat by way of grant of non-functional selection grade to GP 4200 (available to 30 percent of UDCs). It is expected to lead to further resentment at the level of UDCs in the field as well as with other non-secretariat posts with which they had parity before. Since as per the recommendation of this Commission, Assistants have now come to lie in Level 6 of the pay matrix which corresponds to pre revised GP 4200, this Commission recommends withdrawal of non-functional selection grade to GP 4200 in respect of Upper Division Clerks belonging to CSS."

(ii) The implementation of 7th CPC recommendations is still under consideration of Govt. if the above recommendation of 7th CPC is acceded to by the Govt. then the NFSG given to the UDCs of CSCS vide OM dated 22.06.2011 itself would be withdrawn. Therefore, the ground (OM dated 22.06.2011) on which the applicants in the subject OA have sought extension of those benefits won't

exist. Therefore, it will not be appropriate for the time being to allow NFSG to UDCs of CAT as well as the other non-Secretariat posts with which UDCs of CSCS have parity before, till the time a decision regarding the implementation of those recommendations of 7th CPC is taken and implemented.

5. Therefore, in compliance with the order of the CAT dated 21.07.2015 "to take a final view on the claim of the applicants", it has been decided that the prayer of the applicants to extend the benefits of NFSG as granted to UDCs of CSCS to them (UDCs of CAT) cannot be agreed to at this point of time as mentioned above."

6. It was the case of the respondents as on the date of filing of the CP, i.e., on 20.11.2015, and also as on the date of filing of the compliance report, i.e., on 16.11.2016, that the implementation of 7th CPC recommendations, is still under consideration of Government and if the recommendation of 7th CPC is acceded to by the Government, then the NFSG given to the UDCs of CSCS itself would be withdrawn and in such an event the ground on which the applicants have sought extension of those benefits won't exist and in the circumstances the prayer of the applicants to extend the benefits of NFSG as granted to UDCs of CSCS cannot be agreed to at that point of time.

7. This Tribunal while disposing of the OA directed the respondents to take a final view on the claim of the applicants and the respondents taken a final view vide their Order dated 04.04.2016, keeping in view the circumstances prevailing as on the said date. It is also not in dispute that either as on the date of filing of the CP or on the date of filing of compliance affidavit by the respondents, the implementation of the 7th CP recommendations was under consideration. Hence, we do not find any willful or deliberate contempt of the orders of this Tribunal by the respondents.

8. In the circumstances, the CP is closed and notices issued to the respondents are discharged. However, this order shall not preclude the applicants from making appropriate representation to the respondents keeping in view the acceptance of the 7th CPC recommendations by the Government of India, during the pendency of the CP, and the respondents from considering and disposing of the same, in accordance with law. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

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