

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.988/2015

Order Reserved on: 12.02.2016
Order pronounced on 22.02.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri Shekhar Agarwal, Member (A)

1. Avadhesh Sah & 36 others ... Applicants
(As per memo of parties)

(By Advocate: Mr. Ajesh Luthra)

Versus

1. Union of India
Through its Secretary
Ministry of Finance
South Block
Govt. of India
New Delhi – 110 011.

2. Union of India
Through its Secretary
Ministry of Defence (Finance)
South Block
Govt. of India
New Delhi – 110 011.

3. The Controller General of Defence Accounts
Ulan Batar Road, Palam
Delhi Cantt. ... Respondents

(By Advocate: Mr. G.D.Sharma)

ORDER

By V. Ajay Kumar, Member (J):

The applicants, who are working as Assistant Accounts Officers under the respondents, having aggrieved by their action in not granting the fixation of pay in the upgraded pay scale of Rs.7500-12000 from the date of their promotion to the said post, filed the OA.

2. When the matter is taken up for hearing, it is submitted that the subject matter of this OA was covered by the decisions of various benches of this Tribunal, including the decision of the Patna Bench in OA No.050/00068 of 2014 (**Sidhartha Shankar Roy and Others v. Union of India & Others**), as upheld by the Hon'ble High Court of Patna in CWJ Case No.6969/2015 dated 01.10.2015, in favour of the applicants. It is further submitted that the subject matter of the OA was also covered by a Full Bench decision of the Madras Bench in OA No.310/00173/2014 (**R. Karthikeyan & Others v. Union of India & Others**) dated 07.07.2015, however, against the claim of the applicants.

3. Heard Shri Ajesh Luthra, the learned counsel for the applicants and Shri G.D.Sharma, the learned counsel for the respondents, and perused the pleadings on record.

4. Shri Ajesh Luthra, the learned counsel for the applicants, while drawing attention of this Tribunal to various decisions, strenuously submitted that though a Full Bench of this Tribunal rejected the claim

of the persons identical to the applicants, but when the Hon'ble High Court of Patna held in favour of the persons, who are also identical to the applicants, this Tribunal ought to follow the decision of the Hon'ble Patna High Court, though it is not a jurisdictional High Court but a higher forum and the decision of the same is binding on this Tribunal, in the absence of any contradicting decision by a jurisdictional High Court.

5. The learned counsel for the applicants has drawn our attention to paras 20 and 21 of the decision of this Tribunal in OA No.473/2015 (Karan Pal Singh v. Commissioner of Police, Delhi and Others) dated 24.07.2015 and contend that this case can be finally decided subject to outcome of the SLP pending before the Hon'ble Apex Court in Sidhartha Shankar Roy case (*supra*).

6. Per contra, Shri G. D. Sharma, the learned counsel for the respondents while reserving his right to contest on merits of the case and also on the contention of the applicants' counsel, however submits that they have filed SLP(C) No.1539 of 2016 along with a stay application against the decision of the Patna Bench in OA No.050/00068 of 2014 as upheld by the Hon'ble High Court of Patna in CWJ No.6969 of 2015 and that the said SLP (C) CC No.1539/2016 and the stay application are directed to be listed on 01.03.2016 along with another connected SLP(C) No.9986 of 2015, and hence, this Tribunal,

may have to wait for the decision of the Hon'ble Apex Court at least till the disposal of the stay application.

7. There is no quarrel with regard to the principle of law about the supremacy and the binding nature of a decision of a High Court passed in identical facts, on this Tribunal. However, when the said decision of the said High Court is questioned before the Hon'ble Apex Court, and more so when a stay petition is also directed to be listed for passing appropriate orders, as rightly contended by the learned counsel for the respondents, and also in the peculiar circumstances of this case, we are of the considered view that the hearing of this OA, on merits, shall have to wait till the stay application, pending before the Hon'ble Apex Court, is decided.

8. Hence, list the OA on 08.03.2016.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

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