

Central Administrative Tribunal
Principal Bench
New Delhi

M.A.No.3960/2015
in
C.P.No.485/2008
in
O.A.No.576/2007

Order Reserved on: 09.08.2016
Order pronounced on 05.09.2016

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

P.N.Prasad & Ors. ... Applicants

(By Advocate: Shri G.D.Bhandari)

Versus

Union of India & Ors. ... Respondents

(By Advocate: Shri V.S.R.Krishna and Shri Shailendra Tiwary)

O R D E R

By V. Ajay Kumar, Member (J):

The petitioner in the MA, a retired Senior Loco Inspector, along with certain other similarly persons filed OA No.576/2007, seeking refixation of their pay with an add on element of 55% of the basic pay towards the running allowances in terms of the Railway Rules and the decision in **Krishan Lal v. Union of India** in OA No.229/2000 dated

16.10.2001, which has attained finality. The said OA No.576/2007 was allowed by an Order dated 10.03.2008 of this Tribunal as under:

"5. In the light of above, though learned counsel for respondents vehemently opposed, OA is allowed. Respondents are directed to extent the benefit of **K.L.Mehndiratta's case (supra)** to the applicants and recomputed the pension and other retiral dues on refixation of pay with arrears thereof to be disbursed to the applicants within a period of three months from the date of receipt of a copy of this order. No costs.

2. The Writ Petition (C) No.3816/2008 filed by the respondents was dismissed by the Hon'ble High Court of Delhi vide its Order dated 18.09.2008, following its decision in WP (C) No.2937/2007 also dated 18.09.2008, filed by similarly placed persons. The said Order reads as under:

"9. In the impugned order passed by the Tribunal, all that has been done is that the Tribunal has followed the decisions rendered by the Allahabad High Court, by this Court and by the Supreme Court and on that basis, the Tribunal has come to the conclusion that the Respondents are entitled to 55% addition of their basic pay for pensionary benefits.

10. Learned counsel for the Petitioners submits that Notification dated 25th November, 1992 was not taken into consideration by this Court or by the Supreme Court and that that may have a material impact on the case because that Notification pertains to post-1992 retirees like the Respondents.

11. As far as we are concerned, since the decision of this Court in **Krishan Lal** also pertains to a post-1992 retiree (Krishan Lal having retired on 31st January, 1994) it cannot be said that this Court was oblivious of the Notification dated 25th November, 1992. Obviously, we cannot say that the Supreme Court also was not aware of the Notification dated 25th November, 1992.

12. Under the circumstances, the controversy having been set at rest by this Court, and its decision not interfered with by the Supreme Court, we do not want to begin an unnecessary round of litigation all over again.

13. For the foregoing reasons, we do not find any merit in this writ petition and accordingly dismiss it.

14. No costs."

3. The CP No.485/2008 filed by the applicant, alleging non-implementation of the aforesaid orders, was adjourned **sine-die** in

view of the stay granted by the Hon'ble Apex Court in SLP (Civil) No.3216/2009, by an order of this Tribunal dated 27.03.2009, which reads as under:

"As per the order dated 23.03.2009 of the Hon'ble Supreme Court made in SLP (Civil) 3216/2009, the contempt proceedings in this case are stayed. Learned counsel for the applicant, at this juncture, submits that the personal presence of General Manager, Northern Railway is not specifically stayed. The order dated 17.02.2009 of this Court runs as under:-

"In this circumstances, we direct the respondents to comply with our directions within fifteen days from today, though may be subject to the outcome of the SLP to be filed by them against the order of the High Court of Delhi, failing which General Manager, Northern Railway, Baroda House, New Delhi shall remain present in the Court on the next date of hearing."

The above direction is part and parcel of the contempt proceedings. Inasmuch as the Contempt proceedings as a whole are stayed, we are of the view that the order of the Hon'ble Supreme Court staying the proceedings is a comprehensive order covering the appearance of the General Manager also. In the circumstances, the Contempt Petition is adjourned sine die."

4. The applicant filed the present MA, seeking to revive the CP No.485/2008 by submitting that the SLP (Civil) No.3216/2009 and batch, was disposed of by an order dated 29.04.2015 of the Hon'ble Apex Court by granting liberty to the respondents-Railway to approach the Hon'ble High Court by filing review Petitions, in WP (C) No.2937/2007 and batch. Accordingly, the respondents filed Review Petition No.377/2015 and batch in WP(C) No.2937/2007 and batch and the same were dismissed by a common order dated 09.10.2015 of the Hon'ble High Court of Delhi and hence the CP No.485/2008 is to be revived.

5. Shri V.S.R.Krishna and Shri Shailendra Tiwary, the learned counsel appearing for the respondents would submit that against the orders of the Hon'ble High Court of Delhi in Review Petition No.377/2015 and batch, the respondents- Railways preferred SLP © No.4758/2016 and the Hon'ble Apex Court by its order dated 18.03.2016 granted stay of the operation of the common judgement dated 09.10.2015, until further orders, and hence, till the said stay is vacated or the SLP is finally decided, the CP No.485/2008 is not required to be revived.

6. The contention of the learned counsel for the miscellaneous applicant Shri G.D.Bhandari, that though the Hon'ble Apex Court by its order dated 18.03.2016 stayed the operation of the Judgement dated 09.10.2015 in Review Petition No.377/2015 and batch, but since the respondents have not filed any SLP against the specific case of the applicant, i.e., Review Petition No.329/2015, in WP (C) No.3816/2008, and that no stay was granted in his case, the respondents are under obligation to comply with the orders of this Tribunal in his OA No.576/2007 and since they failed to do the same, the CP No.485/2008 is liable to be revived and that the respondents should be punished for the Contempt of the orders of this Tribunal, is unsustainable, because the OA No.576/2007 of the applicant itself was allowed by following the decisions in **Krishan Lal Sharma's** case (supra) and **K.L.Mehndiratta's** case. The said cases were also heard by Hon'ble High Court of Delhi, along with the case of the applicant and all the cases were disposed of by a common order dated

09.10.2015. The Hon'ble Apex Court on 18.03.2016 in SLP No.4758/2016 stayed the said common order.

7. Since the OA of the applicant itself was allowed following the cases of Krishan Lal Sharma (supra) and Shri K.L.Mehndiratta (supra) and the decision of the Hon'ble High Court in the said cases itself was stayed by the Hon'ble Apex Court, we are of the considered view that the CP No.485/2008 can be revived only after the SLP No.4758/2016 is finally disposed of by the Hon'ble Apex Court. Accordingly, the MA is dismissed. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

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