

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

**OA No.4247/2017
(CWP No.1052/2001)
MA No.1980/2018, MA No.3575/2018
and MA No.3848/2018**

Reserved On:20.09.2018

Pronounced On:27.09.2018

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)

1. Bihar RPNN Ltd. Employees Union,
Bokaro Thermal, PO Bokaro Thermal,
District Bokaro, Jharkhand,
Through its General Secretary,
Ramyan Rai.
2. NPCC Employees Union Mirzapur,
Through its Secretary,
Shri M.K. Jha at NPCC, Shakti Nagar,
Sonebhadra (UP).
3. NPCC Mazdoor Sangh,
Through its General Secretary,
Shri Shri Bhagwan Sharma,
At NPCC, Salal Project,
PO Biddha, Dist. Udhampur (J&K).
4. NPCC Employees Union of Bengal,
Through its General Secretary,
Shri Subh Narain Prasad at
Forward Block Party Office,
Ayodhya More, PO Bagmundi,
District Purulia (West Bengal).
5. Vishwanath Singh,
S/o Late Shri Nemi Singh
Working as TM Spl. Grade II (Electrician),
Bokaro Thermal, NPCC LTD.,
District Bokaro, Jharkhand. ...Applicants

(By Advocate : Shri Kshitij Mudgal with Ms. Bandan Singh)

Versus

1. Union of India,
Through the Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
New Delhi-1.
2. National Projects Construction
Corporation Ltd.,
Through its Chairman and Managing
Director,
30-31, Raja House, Nehru Place,
New Delhi. ...Respondents.

(By Advocate: Shri Paritosh Budhiraja for Respondent No.2)

ORDER

By Hon'ble Mr. V. Ajay Kumar, Member (J)

The 2nd respondent-National Projects Construction Corporation Limited (in short NPCC Ltd.) vide Annexure P-6 Office Order dated 29.05.1998, considered the issue of revision of IDA Pay Scales and Allowances below Board level Executives, Staff Members in NPCC Ltd. with effect from 01.01.1992 and the relevant paragraphs of the same read as under:-

“The issue of IDA pay revision w.e.f. 1.1.1992 in terms of Deptt. of Public Enterprise, Ministry of Industry, Government of India OM No.1 (3)/86-DPE (WC) dated 12.04.1993, 17.01.1994 read with OM No.2(50)/86-DPE (WC) dated 19.07.1995 was under consideration for quite sometime and the approval of Administrative Ministry was sought for the pay revision of the employees of the Corporation, in compliance to the directives so laid in above stated OMs. However, at the persistent requests of the employees it has now been decided to revise IDA pay scale as an interim measure awaiting Government of India (Administrative Ministry) approval. This interim measure is valid until it has been accepted by the Government of India (Administrative Ministry) and, therefore, condition to written undertaking.

1.0 DATE OF COMMENCEMENT:

The revised pay scales will be deemed to have come into force w.e.f. 1.1.1992.

2.0 APPLICABILITY:

All employees who have in IDA Scales as on 31.12.1991 or have been appointed on 1.1.1992 or afterwards in IDA pay scales are covered under the present revision.

2.2. All employees who have opted after 31.12.1991 or may opt to switch over to IDA scales of pay.

2.3 Following categories of employees shall not be covered:-

(a) Workman whose wage revision is governed by instrument of negotiations;

(b) Casual and temporary workman;

(c) Persons employed on contract;

(d) Persons reemployed after retirement;

(e) Persons engaged on part-time basis".

(emphasis supplied)

2. The applicants No.1 to 4 are the Employee's Unions and the 5th applicant is an individual employee and working as TM Special Grade-II (Electrician) at the time of filing of the Civil Writ Petition No.1052/2001, which was later transferred to this Tribunal and numbered as the instant OA 4247/2017, vide order dated 16.11.2017 of the Hon'ble High Court of Delhi.

3. The applicants filed the Civil Writ Petition, since now transferred and numbered as the instant OA, seeking the following reliefs:-

“(a) Call for the records of the case;

(b) Issue an appropriate writ, order or direction in the nature of a writ of certiorari quashing office order No.500137/IDA dated 29.05.1998 issued by the respondent Corporation, so far as provision made in its para 2.3 excluding workmen, whose wage

revision is governed by instrument of negotiation from the applicability of benefit of the said order, as illegal, arbitrary and unjust and thus violative of Articles 14 and 16(i) of the Constitution;

(c) Issue an appropriate writ, order or direction in the nature of a writ of mandamus directing respondent Corporation extending benefits of office order No.500137/IDA dated 29.05.1998 issued by the respondent Corporation, to the members of the petitioner-Unions and other similarly placed workmen including those governed by settlement dated 11.10.1996, de hors the provisions of its para 2.3;

(d) Issue an appropriate writ, order or direction directing the respondents to revise the pay of the members of the petitioner-Union and other similarly situated employees/workmen on IDA pattern with effect from 1.1.1992 and pay to them the arrears of salary calculated on the basis of the pay so revised as it has been done in the case of other employees vide Circular dated 29.05.1998;

(e) Pass such further or other order which this Hon'ble Court deems fit and proper in the facts and circumstances of the case".

4. In short, the applicants are challenging Clause 2.3 (a) of the Annexure P-6 Office Order dated 29.05.1998 in excluding the workman whose wage revision is governed by Instrument of Negotiations from the applicability of the said Office Order dated 29.05.1998.

5. Heard Shri Kshitij Mudgal with Ms. Bandan Singh, learned counsel for the applicants and Shri Paritosh Budhiraja, learned counsel for respondent No.2 and perused the pleadings on record.

6. Shri Kshitij Mudgal, learned counsel appearing for the applicants, while not disputing the fact that wage revision of some of the workmen was governed by Instrument of Negotiations by virtue of various agreements entered between the 2nd respondent-NPCC Ltd. and the representatives of All India NPCC Employees Federation prior to the date of issuance of the impugned order

dated 29.05.1998, however, submits that excluding the said set of workmen from the applicability of Annexure P-6 Office Order dated 29.05.1998, is illegal and arbitrary as the decision of the said All India NPCC Employees Federation is not binding on the individual employees, who were not members of the said Federation.

7. On the other hand, Shri Paritosh Budhiraja, learned counsel appearing for respondent No.2-NPCC Ltd. would submit that All India NPCC Employees Federation is consisting of various Associations and Unions and that the applicants No.1 to 4 Unions/Associations are the constituent members of the said All India NPCC Employees Federation and hence the applicants No.1 to 4 Unions/Associations and their members including such as the 5th applicant are bound by the agreements entered by the All India NPCC Employees Federation with the 2nd respondent-NPCC Ltd.

8. We fully agree with the submission made by the learned counsel for the respondents. Further, a set of employees who agreed for any specific wage revision governed by an Instrument of Negotiations, cannot subsequently turn around and seek another different wage revision or fixation on the ground that the later set of workmen got a different wage revision.

9. In the circumstances and for the aforesaid reasons, we do not

find any merit in the OA and accordingly the same is dismissed.

Pending MAs, if any, also stand disposed of. No costs.

(A.K. Bishnoi)
Member(A)

(V. Ajay Kumar)
Member (J)

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