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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A /351/15/2016

Date of order :17.12.2018

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

1. Shri Swapan Kumar Paul
2. Shri Peter Paul Kennedy
3. Shri Vinod Kumar Xalxo
4. Shri Arogya Swamy
5. Shri Alexander Toppo
6. Shri Pradeep Kumar
7. Shri R. Kannan
8. Shri Jefferious Kujur
9. Shri Rajesh Toppo
10. Shri G. Sreedharan

.....Applicants

Versus -

1. The Union of India
Service through the Secretary,
Ministry of Information and Broadcasting,
Shastri Bhawan, New Delhi-110001;
2. The Director General,
Doordarshan Bhawan,
Mandi House,
Copernicus Marg, New Delhi-110 001;
3. The Additional Director General,
All India Radio & Television,
South Zone, No.6 Swamy Sivananda Salai,
Chennai;
4. The Station Engineer,
Doordarshan Maintenance Centre,
Port Blair-744 101,
Andaman & Nicobar Islands.

.....Respondents

For the applicant : Mr. R. George, counsel
For the respondents : Mr. V.D.S. Balan, counsel

ORDER

Bidisha Banerjee, Judicial Member

Heard both.

2. This O.A. has been preferred by the applicants in order to seek the following reliefs:-

"a) Leave be granted to the applicants to move this original application jointly under Rule 4(5)(a) of the CAT(Procedure) Rules, 1987 as the cause of action and the nature of relief prayed for is same having common interest in nature.

b) A mandatory order directing the Respondent authorities to regularise the service of the applicants while taking into consideration that the applicants are performing and discharging the duties since their initial appointment in a sensitive place of work in different part in these islands;

c) A mandatory order directing the Respondent authorities to fix the wages of the applicants under the Minimum Wages Act, 1948 which is applicable to the highly skilled workers;

d) An order be directing to set aside/quash/cancel/recall or upset the speaking order dated 17/19.10.2015 passed by respondent authorities;

e) An order directing the Respondent authorities to certify and transmit the records relating to the instant proceeding so that the conscientious justice;

f) Any other appropriate relief or reliefs, as Your Lordship may deem fit and proper."

3. At hearing, Id. counsel for applicant would pray for liberty to file a comprehensive representation to seek appropriate wages in view of the recent ruling of the Hon'ble Apex Court on 14.11.2018 in **Sabha Shankar Dube vs. DFO, Civil Appeal No.10956 of 2018** with other matters. Hon'ble Apex Court therein, while discussing the implications of its earlier decisions in **State of U.P. Vs. Puttilal** reported in (2006) SCC 337 and **State of Punjab Vs. Jagjit Singh** reported in (2017)1 SCC 148, held as under:

"9. On a comprehensive consideration of the entire law on the subject of parity of pay scales on the principle of equal pay for equal work, this Court in Jagjit Singh(*supra*) held as follows:

"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

10. The issue that was considered by this Court in *Jagjit Singh (supra)* is whether temporary employees (daily wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and likewise) are entitled to the minimum of the regular pay scales on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts. After considering several judgments including the judgments of this Court in *Tilak Raj (supra)* and *Sarjit Singh (supra)*, this Court held that temporary employees are entitled to draw wages at the minimum of the pay scales which are applicable to the regular employees holding the same post.

11. In view of the judgment in *Jagjit Singh (supra)*, we are unable to uphold the view of the High Court that the Appellants herein are not entitled to be paid the minimum of the pay scales. We are not called upon to adjudicate on the rights of the Appellants relating to the regularization of their services. We are concerned only with the principle laid down by this Court initially in *Putti Lal (supra)* relating to persons who are similarly situated to the Appellants and later affirmed in *Jagjit Singh (supra)* that temporary employees are entitled to minimum of the pay scales as long as they continue in service.

12. We express no opinion on the contention of the State Government that the Appellants are not entitled to the reliefs as they are not working on Group 'D' posts and that some of them worked for short periods in projects.

13. For the aforementioned reasons, we allow these Appeals and set aside the judgments of the High Court holding that the Appellants are entitled to be paid the minimum of the pay scales applicable to regular employees working on the same posts. The State of Uttar Pradesh is directed to make payment of the minimum of pay scales to the Appellants with effect from 1st December, 2018."

4. In view of the decisions supra, we permit the applicant to withdraw the present OA to file a comprehensive representation to seek benefits of the said judgment cited (supra) within a period of 6 weeks from the date of receipt of a copy of this order.

5. In the event, such representation is preferred, the respondents shall duly consider the same in accordance with the decision of Hon'ble Apex Court and pass an appropriate order within a further period of 4 weeks.

6. Ld. Counsel for respondents admits at the bar that the applicant is being utilised on the basis of Court's order and there is no proposal to discontinue him, therefore, there is no need to grant any interim protection pending disposal of the representation.

7. Accordingly, the OA would stand disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member