

CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH
(CIRCUIT BENCH AT SHIMLA)

O.A.NO.063/1459/2017

Orders pronounced on:05.04.2019
(Orders reserved on:06.03.2019)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

1. Ajay Bhatti S/o Sh.Raj Kumar Bhatti, aged about 36, presently working as Cook at AFS Kasauli, R/o Village Nalwa, PO : Kasauli, Tehsil & District Solan, (H.P).
2. Amit Kumar S/o Sh. Prem Nath, aged about 35 years, presently working as House Keeping Staff at AFS Kasauli, R/o House No. 23, Village Mashobra, PO: & Tehsil Kasauli, District Solan, (HP).
3. Anil Kumar S/o Sh. Gokul Ram, aged about 45 years presently working as MTS at AFS Kasauli, R/o Village Mashobra, PO: Kasauli, Tehsil Kasauli, District Solan, (H.P).
4. Anju Singh W/o Sh. Yaman Makkar, aged about 43 years, presently working as Junior Translator (H) at AFS Kasauli, R/o Kashyap Niwas, V&PO Saproon, Tehsil & District Solan (HP).
5. Ashok Kumar S/o Sh. Ramesh Chandra, aged about 32 years, presently working as LDC at AFS Kasali, R/o V&PO Dharauli (Kishunganj), Tehsil Sadar, District Pratapgarh, U.P. 'Baldev S/o Sh. Parma Nand, aged about 29 years, presently working as Mess Staff at AFS Kasauli, R/o Village Naryali, PO : Jabali, Tehsil Kasauli, District Solan, (H.P)
6. Baldev Singh S/o Sh. Rikhi Ram, aged about 45 years, presently working as Mess Staff at AFS Kasauli, R/o Village Naryali, PO : Jabali, Tehsil Kasauli, District Solan, (HP).
7. Baldev Singh S/o Sh. Rikhi Ram, aged about 45 years, presently working as MTS at AFS Kasauli, R/o Village Mashobra, PO: Kasauli, Tehsil Kasauli, District Solan, (HP).
8. Bal Krishan S/o Sh., Fakir Chand, aged about 48 years, presently working as House Keeping Staff at AFS Kasauli, R/o Village Kamli, PO : Darwa, Tehsil & District Solan, (HP).
9. Davinder Kumar S/o Sh. Nand Lal Sharma, aged about 53 years, presently working as MTS at AFS Kasauli, R/o Village Kotla, PO: Dharampur, Tehsil & District Solan, (HP).
10. Dharam Pal Sharma S/o Sh. Ram Lal Sharma, aged about 35 years, presently posted as Cook at AFS Kasauli, R/o Anand Villa Upper Mall, Kasauli, District Solan, HP.

11. Dhian Singh S/o Sh. Sant Ram, aged about 45 years, presently working as Mess Staff at AFS Kasauli, R/o Village Ghusan, PO: Kasauli, Tehsil Kasauli, District Solan, (H.P).
12. Hari Dass S/o Sh. Kanahiya Ram, aged about 50 years, presently working as MTS at AFS Kasaul, R/o Village Khata PO: Darlaghat, Tehsil Arki, District Solan (HP).
13. Kamal Kishore, S/o Sh. Banta Ram, aged about 32 years, presently working as House Keeping Staff at AFS Kasauli, R/o Village Jandheri, PO: Jandheri, Tehsil Shahbad Markanda, District Kurukshetra, Haryana.
14. Kewal Kumar S/o Sh. Madho Ram, aged about 31 years, presently working as MTS, R/o Village Bharera, PO: Thareta, Tehsil Dalhousie, District Chamba, HP.
15. Krishna Devi W/mo Late Sh. Sada Ram, aged about 55 years, presently working as MTS at AFS Kasauli, R/mo Village Kimoghat, PO: Garkhal, Tehsil Kasauli, District Solan, (HP).
16. Lekh Ram S/o Sh. Sundru Ram, aged about 55 years, presently working as MTS at AFS Kasauli, R/o Village Kyaru, PO: Dagshai, Tehsil & District Solan (H.P).
17. Manoj Kumar S/o Sh. Prem Chand, aged about 36 years, presently working as Cook at AFS Kasauli, R/o V&PO: Haripur, Tehsil Dehra, District Kangra, (H.P).
18. Mohinder Pal S/o Late Sh. Shantia, aged about 39 years, presently working as MTS at AFS Kasauli, R/o Village Bathol, PO: Dharampur, Tehsil Kasauli, District Solan, (H.P).
19. Narain Singh S/o Sh. Chain Singh, aged about 47 years, presently working as MTS at AFS Kasauli, R/o Village Rampur, PO: Sultanpur, Tehsil & District Solan (H.P).
20. Paurush Verma S/o Sh. Rajinder Verma, aged about 20 ears, presently working as Mess Staff at AFS Kasauli, R/o village Gall, PO: Fagu, Tehsil & "District Shimla, (H.P).
21. Rajesh Kumar S/o Sh. Sohnu Ram, aged about 52 years, presently working as MTS at AFS Kasauli, R/o Village Himmat Dawali, PO: Kumarhatti, Tehsil & District Solan, (H.P).
22. Ram Pal S/o Sh. Paras Ram, aged about 42 years, presently working as Cook at AFS Kasauli, R/o Village Tikriduki, PO: Tikri, Tehsil Baijnath, District Kangra, H.P.
23. Ramesh Kumar S/o Sh. Loka Ram, aged about 45 years, presently working as House Keeping Staff at AFS Kasauli, R/o Village Shakri, PO: Jabli, Tehsil Kasauli, District Solan, (H.P).

24. Roop Ram S/o Sh. Dhani Ram, aged about 42 years, presently working as House Keeping Staff at AFS Kasauli, R/o Village Naryali, PO: Jabli, Tehsil Kasauli, District Solan (H.P).
25. Sachin Kumar S/o Sh. Brij Mohan, aged about 28 years, presently working as Mess Staff at AFS Kasauli, R/o Village Tappal, PO: Haliwala, Moholla, District Aligarh, UP.
26. Shyam Singh S/o Sh. Sunder Singh, aged about 60 years, presently retired from Mess Staff at AFS Kasauli, R/o Village Banog, PO: Kashlog, Tehsil Arki, District Solan, (H.P).
27. Surender Singh, S/o Late Sh. Mohan Lal, aged about 33 years, presently working as MTS at AFS Kasauli, R/o Village Kheel, PO & Tehsil Kasauli, District Solan, (HP).
28. Trishla Rani W/o Sh. Sanjeev, aged about 49 years, presently working as steno at AFS Kasauli, R/o House No. 5223, Jain Mandir, Ambala Cantt, Haryana (H.P).
29. Umesh Kumar S/o Sh. Suresh, aged about 32 years, presently working as Mess Staff at AFS Kasauli, R/o village Moti Kona, PO: Sanawar, Tehsil Kasauli, District Solan, (HP).
30. Uttam Chand S/o Sh. Fakir Chand, aged about 26 years, presently working as MTS at AFS Kasauli, R/o Village Ghushan, PO: Kasauli, Tehsil Kasauli, District Solan, (HP).
31. Vijyanand S/o Sh. Baswanand, aged about 26 years, presently working as MTS at AFS Kasauli, R/o Village Badshi, PO: Khand, Tehsil Chinyalisaur, District Uttarakhand, (UK).
32. Yashpal S/o Sh. Sahaj Ram Sharma, aged about 38 years, presently working as House Keeping Staff at AFS Kasauli, R/o Village Banjani, PO: Sevdar Chandi, Tehsil Arki, District Solan (HP).

...

Applicants

(BY MR. PREM P. CHAUHAN, ADVOCATE).

Versus

1. Union of India through Secretary (Defence) to the Government of India, Ministry of Defence, 316-A, B-Wing, Sena Bhawan, New Delhi-24.
2. The Chief Air Staff, Air Headquarters R.K. Puram, New Delhi-110066.

....

Respondents

(BY MR. ANSHUL BANSAL, ADVOCATE).

O R D E R
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. M.A. No. 1841/2017 stands allowed permitting the applicants to file a joint Original Application (OA).

2. The applicants has filed this Original Application (O.A) under section 19 of the Administrative Tribunals Act, 1985, seeking issuance of direction to the respondents to grant them Special Compensatory (Remote Locality) Allowance to them from due date with arrears thereon with interest @18% per annum etc.

2. The facts of the case, which led to filing of the instant O.A, are that the applicants were or are posted at Air Force Station (AFS) Kasauli, H.P. as Civilian employees in different trades. After Fifth Pay Commission Report, the Central Government allowed Special Compensatory (Remote Locality) Allowance (for short "SCA") against Hill Compensatory Allowance, including for employees posted at Shimla. On being denied this benefit, the employees posted in AFS, Kasauli, and Central Research Institute, approached this Tribunal by filing O.A.No. 92-HP-1988 titled **CENTRAL RESEARCH INSTITUTE EMPLOYEES**

ASSOCIATIONVS. UNION OF INDIA & OTHERS, claiming similar relief, which was decided on 19.5.1989 (Annexure A-1) directing the respondents to pay such SCA to them also w.e.f. the date it was paid to employees posted at Shimla. The applicants also claimed similar relief by issuance of legal notice/representation on 11.5.2017 but to no avail. On filing of an application under Right to Information Act, 2005, they have been informed that the benefit of SCA was allowed to only those employees who were party to the said case, hence the O.A.

3. The respondents have filed a reply. They submit that AFS Kasauli was authorized SCA as per letter dated 29.8.2008 (Annexure R-1) and in pursuance thereof, the SCA was paid to all employees of Station as per policy till 30.6.2017 before implementation of 7th Pay Commission Recommendations, except employees who were arrayed as a party to O.A. No. 1072-HP-1990 (**MUKESH GAUTAM & OTHERS VS. UNION OF INDIA & OTHERS**) decided on 19.10.1990. The claim of applicants has been declined as they were not a party to the case relied upon by them and decision was implemented in personem only.

4. We have heard the learned counsel for the parties at length and with their able assistance, also examined the pleadings minutely.

5. The learned counsel for the applicants vehemently argued that the benefit of decision cannot be restricted to applicants only as that would be illegal as the respondents being a model employer, cannot force each and every employee to knock the door of court of law by individual petitions as that would amount to encouraging multiplicity of litigations. On the other hand the respondents, through their counsel, would submit that since applicants were not a party to the indicated case and as such their claim was rightly rejected by respondents.

6. We have carefully considered the submissions on both sides and examined the material on file with the able assistance of learned counsel for the parties.

7. The facts are not at all in dispute that the issue raised about grant of SCA to employees posted in AFS, Kasauli stands settled

in the case of Mukesh Gautam & Others (supra) a long time back in 1990 itself. The applicants have been denied benefit only on the ground that they were not a party to the pointed case which is not legally sustainable. The respondents have not taken any plea of O.A. being barred by law of limitation in para 3 of their reply to the O.A. in which applicants claim that O.A. is within the period of limitation. In fact while giving reply to the applicants in 2017, only plea taken by them is that since applicants were not a party to the indicated case and as such they have rightly been denied benefit of decision.

8. Once the issue has been set at rest by a co-ordinate Bench of this Tribunal, we see no earthly reason with the respondents to deny the benefit of the decision to identically placed person like the applicants herein. In the case of **K.C. SHARMA VS. UOI ETC.**, 1997(3) SCT 341 the Apex Court and in **SATBIR SINGH VS. STATE OF HARYANA ETC.**, 2000(2) SCT 54, the jurisdictional High Court have held that benefit of a judgment cannot be denied to similarly situated employees. Similarly, in **UNION OF INDIA AND ANR. VS. LALITA S. RAO & ORS.**, AIR 2001 SC 1972, it was held that an order of a court should be implemented for similarly situated employees whether party or not instead of forcing each and every individual to approach the court of law for similar relief.

9. In the wake of the aforesaid factual position and legal principles laid down by courts, we are of the firm view that this O.A. merits acceptance and is allowed accordingly. The respondents are directed to extend the benefit of indicated decision to the applicants also in same terms as given to

applicants in the case of Mukesh Gautam etc. (supra) within a period of three months from the date of receipt of a certified copy of this order. However, the parties are left to bear their own costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(P. GOPINATH)
MEMBER (A)

PLACE: CHANDIGARH.
DATED: ____APRIL, 2019

HC*

