

(13)

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

C.P.No.333/2004 in O.A.No.899/2003

This the 26th day of August 2005

**Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)**

1. Shri Sher Singh Chauhan
son of Shri Ganga Ram Singh
aged about 47 years
2. Shri D.C. Tongaria
son of late Shri Puran Chand Tongaria
aged about 59 years
3. Shri MS Meshram
son of Shri Shripati Meshram
aged about 51 years
4. Shri Jagdish Prasad
son of Shri Moji Ram
aged about 50 years
5. Smt. Sushila Sharma
wife of Shri N.K.Sharma
aged about 50 years
6. Shri Paramjit Singh
son of Shri Parmatam Singh
aged about 50 years
7. Shri KS Rathore
son of Shri Jodh Singh
aged about 50 years
8. Shri Mohinder Pal
son of Shri Kedar Nath Sharma
aged about 51 years
9. Shri Devinder Kumar
son of Shri BS Nim
aged about 47 years
10. Shri Ashok Sehgal
son of Shri HC Sehgal
aged about 53 years
11. Km. Shashi Bala
d/o Shri S.N. Aggarwal
aged about 44 years
12. Shri Mohinder Pall
son of late Shri Punnu Ram
aged about 58 years



13. Shri VK Savita
son of Shri Bhaiya Lal Savita
aged about 51 years
14. Smt. Deep Kaur
wife of Shri Pal Singh
aged about 47 years
15. Shri HK Sharma
son of Shri Harbans Lal Sharma
aged about 48 years
16. Shri AK Sharma
son of late Shri Madan Gopal Sharma
aged about 46 years
17. Shri Rajinder Prasad
son of late Shri Chhaju Ram
aged about 49 years
18. Shri Santosh Kumar
son of Shri Hari Ram Nariani
aged about 46 years
19. Shri K. Dhanrajan
son of Shri H. Krishnan
aged about 36 years
20. Shri Narender Singh
son of Shri Nathu Singh
aged about 52 years
21. Shri NK Awal
son of Shri Hamam Das
aged about 50 years
22. Shri A.K. Tangry
son of Shri MS Tangry
aged about 47 years

(All c/o Office of the Development Commissioner
(Handicrafts), West Block, 7, R.K. Puram,
New Delhi-66)

23. Shri BD Gupta
son of late Shri KL Gupta
aged about 52 years
24. Shri Bhairav Datt
son of Shri Gopal Datt
aged about 46 years

(All c/o Office of the Development Commissioner
(Handicrafts), Northern Region,
West Block, 8, R.K. Puram,
New Delhi-66)

..Applicants

(By Advocate: Ms. Raman Oberoi)

Versus

(PS)

Union of India through

1. Shri Wajahat Habibullah
Secretary (Textiles)
Ministry of Textiles
Udyog Bhawan, New Delhi
2. Smt. Tinoo Joshi
Development Commissioner (Handicrafts)
Office of the Development Commissioner (Handicrafts)
Ministry of Textiles,
West Block No.7, RK Puram
New Delhi-66
3. Shri DC Gupta
Secretary (Finance & Expenditure)
Ministry of finance & Expenditure
North Block, New Delhi-1
4. Shri Sudhir Bhargava
Joint Secretary (Establishment)
Chairman, Deptt. Anomaly Committee
Ministry of Textiles, Udyog Bhawan
New Delhi

..Respondents

(By Advocate: Shri TC Gupta)

O R D E R

Shri V.K. Majotra:

OA-899/2003 was disposed of with a direction to the respondents to take a final decision in respect of the grievance of the applicants by requiring the Departmental Anomaly Committee (DAC) in the Ministry of Textiles to finalize its recommendations and also to take a final decision in the matter within a period of three months. It has been alleged in this contempt petition that in the minutes of the DAC meeting held on 4.8.2004, DAC has taken a stand against the observations of this Court that the anomaly is not only vertical but also horizontal and further that no anomaly has been caused. It was also pointed out that respondents have not taken any final decision on the recommendations of the DAC.

2. On 16.5.2005, we had accorded three weeks' time to the respondents to take decision in the matter and also to communicate the same to the applicants.

3. Learned counsel of the respondents stated that in compliance of Tribunal's directions, the DAC had taken the view that even with

Do

(16)

the upgraded pay of Investigators, no anomaly has been caused so far as the pay scales of Investigators and HPO are concerned. This view of the DAC was considered by the Ministries of Textiles and Finance and a final decision was taken and conveyed to the applicants vide Annexure R-2 dated 21.7.2005. It was decided that "the placement of the Investigators in the pay scale of Rs.5000-8000 does not lead to any kind of upgradation and was simply a consequence of implementation of the notification of the 5th CPC issued by Govt. of India and even with the upgraded pay scale, the post of Investigator happens to be a lower post in regard to the pay scale of HPO." A final decision having been taken by the respondents and conveyed to the applicants, learned counsel maintained that no willful disobedience of the directions of the Court has been committed by the respondents.

4. Learned counsel of the applicants maintained that ^b the Court had held that anomaly existed on account of the implementation of the recommendations of the 5th CPC in respect of the post of Investigators, which had disturbed the vertical relativity between the posts of Investigators and those of HPOs and AD(H). As such, respondents could not have gone behind the findings of the Court to conclude that anomaly did not exist. Relying on the judgment dated 12.7.2001 of the Calcutta High Court in **Ashim Kumar Sharma & others v. Arun Kumar Roy, Director of School Education**, 2002 (1) SLR 472, learned counsel maintained that respondents ought to have considered the matter with due application of mind and that the Court is competent to lift the veil with a view to ascertain whether it is a clever ploy of the respondents for not implementing the directions of the Court.

5. On the other hand, learned counsel of the respondents contended that the Court had not given any positive directions to the respondents for upgradation of pay scales of HPO and AD(H). Respondents were merely called upon to take a final decision in respect of the grievance of the applicants by requiring the DAC to finalize its recommendations. Learned counsel stated that DAC having finalized its recommendations and respondents ^{ing} have taken a final decision in the matter, which is against the relief claimed by the applicants, action of the respondents would not come within the scope of deliberate and contumacious disobedience of the directions of the Court.

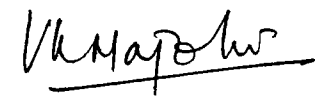
b

6. We have considered the respective contentions of the parties. Relying on **J.S. Parihar v. Ganpat Duggar & others**, JT 1996 (9) SC 611 and **Indian Airports, Employees' Union v. Ranjan Chatterjee & another**, 2000 (1) SLJ 265 (SC), we are of the view that DAC having finalized its recommendations and the respondents having taken a final decision on the grievance of the applicants, action of the Government does not constitute willful disobedience of the orders of the Court. Once there is an order passed by the Government on the basis of the directions issued by the Court, as is the case presently, there arises a fresh cause of action to seek redressal in an appropriate forum.

7. Having regard to the discussions made above, we are of the view that the directions of the Court have been complied with and that no contempt has been made out. Orders passed by the Government constitute a fresh cause of action for which the applicants shall have liberty to resort to redressal in an appropriate forum. The present proceedings are, therefore, dropped and notices to the respondents discharged.


(Shanker Raju)
Member (J)

/sunil/


(V.K. Majotra)
Vice Chairman (A)
26/8/05