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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.Nos.2826 & 2832 of 2003

Thrusday, this the 15th day of July, 2004

Hon'ble Shri Justice V. S. Aggarwal, Chairman  
Hon'ble Shri S. K. Naik, Member (A)

OA-2826/2003

P.K.Sarin  
r/o 492 Block KG-1  
Vikaspuri,  
New Delhi

..Applicant

(By Advocate: Shri Zakir Hussain)

Versus

1. Union of India through its Secretary  
Deptt. of Personnel & Training  
M/o Personnel, Public Grievances  
& Pensions, Lok Nayak Bhawan  
Khan Market,  
New Delhi
2. Secretary  
Ministry of Urban Development  
Nirman Bhawan,  
New Delhi
3. Director General  
Central Public Works Department  
Nirman Bhawan
4. Chief Engineer  
NDZ-IV  
East Block-1 Level-III  
R.K.Puram,  
New Delhi

..Respondents

(By Advocate: Shri R.N.Singh)

OA-2832/2003

Kallu Khan  
r/o 155, Sector-4  
R.K.Puram,  
New Delhi

..Applicant

(By Advocate: Shri Zakir Hussain)

Versus

1. Union of India through its Secretary  
Deptt. of Personnel & Training  
M/o Personnel, Public Grievances  
& Pensions, Lok Nayak Bhawan  
Khan Market,  
New Delhi

(2)

2. Secretary  
Ministry of Urban Development  
Nirman Bhawan, New Delhi
3. Director General  
Central Public Works Department  
Nirman Bhawan
4. Supereintending Engineer  
PWD (Delhi Govt.)  
Vishveraya Setu, Mathura Road  
New Delhi

..Respondents

(By Advocate: Shri R.N.Singh)

O R D E R (ORAL)

Justice V. S. Aggarwal:

By this common order, we propose to dispose of the two OAs (OA-2826/2003 entitled P.K.Sarin v. Union of India & others and OA-2832/2003 entitled Kallu Khan v. Union of India & others). This is for the reason that common questions are involved in both the petitions.

2. The applicants seek to quash clause 4 of the Office Memorandum dated 9.4.1999 and also an order passed by the Chief Engineer, New Delhi dated 17.11.2003 in OA-2826/2003 and order passed by the Superintending Engineer, New Delhi dated 23.6.2003 in OA-2832/2003.

3. It becomes unnecessary for us to dwell into the detailed discussions on the questions in controversy. The reason being that respondents' learned counsel has very fairly drawn our attention to the Office Memorandum of 1.7.2004 issued by the Government of India, Ministry of Personnel, Public Grievances & Pensions, Deptt. of Personnel & Training. On the strength of the same, learned counsel states that the earlier instructions of 9.4.1999 have been modified and the claim of the

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applicant in pursuance thereto can be considered. The said Office Memorandum, which has been issued during the pendency of these petitions, reads:-

"OFFICE MEMORANDUM

Subject: Incentive for acquiring fresh higher qualifications.

The undersigned is directed to refer to this Department's O.M. of even no. dated 9th April, 1999, vide which lump-sum incentive is admissible on acquiring the qualifications listed in the annexure on or after the date of issue of these orders.

2. The question of granting the incentive to those who had acquired these qualifications prior to the date of issue of the above-mentioned O.M. has been considered in consultation with Ministry of Finance. It has been decided that the benefit of lump-sum incentive in terms of O.M. dated 9th April, 1999 may also be granted to Government Servants who had acquired the qualification listed in the Annexure to the O.M. dated 9.4.99 prior to issue of the O.M. but had not availed any incentive either in the form of advance increments or otherwise on this account prior to 9th April, 1999. Grant of incentive shall be subject to the fulfilment of the conditions prescribed in the O.M. dated 9.4.99. Before granting the incentive, the Ministries/Departments shall ensure that the concerned Government servant has not availed of incentive under any other Scheme for the qualification acquired.

3. In so far as the persons working in the Indian Audit & Accounts Department are concerned, these orders issue in consultation with the Comptroller & Auditor General of India."

4. Perusal of the same clearly shows that a decision has been taken that the benefit of lump-sum incentive can also be granted to Government servants who had acquired qualification prior to Office Memorandum of 9.4.1999.

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5. Keeping in view the same, we dispose of the present petitions directing the respondents to consider the claim of the applicants in accordance with law and take an appropriate decision in this regard.



( S. K. Naik )  
Member (A)



( V. S. Aggarwal )  
Chairman

/sunil/