

(2019) 02 CAT CK 0020

In the Central Administrative Tribunal

Case No : Civil Petition No. 572 Of 2016 In Original Application No. 1282 Of 2010

BSNL Officers' Association

APPELLANT

Vs

Shri Anupam Srivastava

RESPONDENT

Date of Decision : 01-02-2019

Acts Referred:

Citation : (2019) 02 CAT CK 0020

Hon'ble Judges : V. Ajay Kumar, J;Aradhana Johri, J

Bench : Division Bench

Advocate : Rani Chhabra, Sameer Agrawal

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

1. O.A. No.1282/2010 filed by the applicants was disposed of by this Tribunal on 26.08.2010 as under:-

"4. For parity of reasons, we allow present Original Application in terms of the decision of Ernakulam Bench of this Tribunal in the matter of M.V. Salilakumar & Ors. Vs. The Chairman & Managing Director & Ors. (supra). However, we make it absolutely clear that the fate of the applicants herein would be dependent upon the writs filed by the respondents in Kerala High Court. That being so, if the writs are allowed, the respondents may withdraw the benefits given to the applicants and, therefore, there will be no need for the respondents to file separate writ in this case".

2. The SLP No.4583/2012 filed by the respondents against the said orders was dismissed on 20.02.2013 as under:-

"Heard learned counsel for the parties at some length. We do not see any reason to interfere with the impugned order, especially, when the Principal Bench of the Tribunal has in the present case arising out of O.A. No. 1282 of 2010 made it clear that the fate of the respondents herein, who were applicants before the

Tribunal, would be dependent upon the result of the Writ Petitions filed by the petitioner - Corporation in the Kerala High Court. The Tribunal has further held that if said Writ Petitions are allowed, the petitioner - Corporation shall be free to withdraw the benefit given to the respondents herein. These observations, in our opinion, sufficiently protect the petitioner - Corporation against any prejudice. It goes without saying that in the light of the observations made by the Tribunal and those made by the High Court if the Writ Petitions filed by the petitioner - Corporation before the Kerala High Court are eventually allowed and the Judgment of the Ernakulam Bench of the Central Administrative Tribunal [CAT] is set aside, any benefit which the petitioner - Corporation may have extended to its employees pursuant to the said Judgment can be reversed not only qua those who are parties to the said case but also qua all such employees as have on the analogy of the said order obtained benefit from the petitioner - Corporation with or without intervention of the CAT or the High Court. It is common ground that pursuant to the order passed by the Ernakulam Bench of CAT the petitioner has already extended the benefit claimed by the applicants in that case. The CAT (Principal Bench) has on the analogy of that order, simply directed a similar benefit to the respondents herein, subject to the condition mentioned above, which as mentioned earlier, sufficiently secures the interest of the petitioner - Corporation, hence calls for no interference from us. With these observations the Special Leave Petition fails and is accordingly dismissed".

3. Alleging violation of the aforesaid orders, the petitioners filed the instant CP. The respondents vide their compliance affidavit submitted that they have complied with the orders of this Tribunal, and accordingly prays for dismissal of the CP.

4. Heard Mrs. Rani Chhabra, the learned counsel for the petitioners and Shri Sameer Agrawal, the learned counsel for the respondents and perused the pleadings on record.

5. Mrs. Rani Chhabra, the learned counsel appearing for the petitioners submits that the respondents have complied with the orders of this Tribunal only partially, i.e., they have granted the benefits to the petitioners from the date they became eligible for pay fixation and not from the date of orders of this Tribunal in the OA, and accordingly prays for punishing the respondents.

6. Shri Sameer Aggarwal, the learned counsel appearing for the respondents submits that they have fully complied with the orders of this Tribunal and accordingly passed an order dated 22.12.2015, granting the benefits of pay fixation not only to the petitioners in the OA but to all the eligible employees of the respondents-BSNL. The learned counsel further submits that aggrieved with the said order dated 22.12.2015, the petitioners have already filed OA No. 1867/2016 and the same is pending on the file of this Tribunal and hence, the instant CP is liable to be dismissed.

7. This Tribunal disposed of the OA of the applicants in terms of the decision of

Ernakulam Bench of this Tribunal in M.V. Salilakumar & Ors. Vs. The Chairman & Managing Director & Ors. (TA No.84/2008 decided on 15.07.2009). The respondents have complied with the orders in the said decision to all the eligible employees and also to the applicants. The orders passed in that regard were already challenged by the applicants by filing a separate OA, which is pending on the file of this Tribunal, therefore, it cannot be said that the action of the respondents amounts to any willful default or violation of the orders of this Tribunal.

8. In the circumstances and for the aforesaid reasons, we do not find any merit in the CP and accordingly the same is dismissed. No costs.