
(2007) 03 DEL CK 0111

In the Delhi High Court

Case No : Writ Petition (C) 1873 of 2007

Secretary Govt. of India and Others

APPELLANT

Vs

Sanjay Kumar and Others

RESPONDENT

Date of Decision : 12-03-2007

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2007) 03 DEL CK 0111

Hon'ble Judges : Mukul Mudgal, J; Aruna Suresh, J

Bench : Division Bench

Advocate : Nasir Ahmed, for the Appellant; M.K. Bhardwaj, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.

CAVEAT ____/2007 (to be numbered)

Since the caveator has put in appearance through counsel, the caveat stands disposed of.

W.P.(C) 1873/2007 and CM3451-3453/2007

1. Rule DB.

2. With the consent of the learned Counsel for the parties, the matter is taken up for final hearing.

3. This Writ Petition challenges the judgment dated 11th July, 2006 passed by the Central Administrative Tribunal (CAT), Principal Bench, New Delhi in OA No. 1935/2005, M.A. No. 1714/2005. The Respondents/Applicant's before CAT case was based on parity of applicability of the Fifth Pay Commission's recommendations as was done in the case of National Institute of Communicable Diseases (NICD) as well as CD in Calcutta. The Petitioners (Respondents herein) are Laboratory Assistants working in Central Indian Pharmacopoeia Laboratory,

Ghaziabad. The Tribunal has given the following findings against the Petitioner/ Govt. of India in the impugned judgment:

Applicants who are Laboratory staff being aggrieved by non-revision of pay scale tors. 4000-6000 as has been done in the case of Laboratory staff holding technical post in NICD as well as in CD Calcutta approached this Court by way of OA-464/2004 By an order dated 24.2.2004 it has been decided to dispose of the representation of the applicant. In the reply filed before us, we find that in principle respondents had agreed to implement the recommendation of the 5th CPC by extending the pay scale of Rs. 4000-6000 to the incumbents of the post of Lab. Assistant in CIPL Ghaziabad but w.e.f. 19.4.2005. The only Explanation to justify the aforesaid action whereby similarly circumstanced and situated incumbents holding technical post have been accorded the pay scale of Rs. 4000-6000 w.e.f. 1.1.96 is that the Department of Expenditure has approved grant of revised pay scale to the applicants only from 10.4.2005.

4. The only reason given to deny the Respondents benefit of the pay scale from 01.01.1996 was the unreasoned order of Department of Expenditure in granting revised pay scale to the Respondents only from 10.04.2005. The counsel for the Petitioner has attempted to question the parity granted by referring to duties of the Respondents. In our view this plea is not available to the Petitioner because if the duties of the Respondents were different they would not have been granted parity from 10.04.2005. Thus, the only reason why they were denied benefit from 01.01.1996 was that the Department of Expenditure without assigning any reason had granted revised pay scale to the Respondent only from 10.04.2005. Accordingly, since even today in this Court we have not been furnished any reason why the Department of Expenditure approved grant of revised pay scale only from 10.04.2005 when other Laboratory staff holding technical posts in NICD as well as CD have been given this benefit from 1.1.1996 demonstrates clear violation of Article 14 and 16 of the Constitution of India. Accordingly, there is no merit in the Writ Petition and it deserves dismissal.

5. Apart from the above reasons, for dismissing the writ petition, we also find that the Tribunal by the impugned judgment granted the Petitioners time to extend the benefit of the judgment with effect from 19.04.2005 or three months from the date of the receipt of the impugned judgment dated 11th July, 2006 and this time expired sometime around 5th October, 2006. On 5th October, 2006 the Petitioner filed MA No. 1883/2006 seeking extension of time to comply with the directions given in the impugned judgment. In spite of obtaining extension time to implement the judgment, the judgment was not implemented. This period was granted by the Tribunal till 31.01.2007. This Court has been approached only today after the Contempt Petition was filed by the respondent and listed on 28th February, 2007.

6. In our view the approach to this Court after seeking time to comply with the order of the Tribunal is not justified and independent of the findings on merits which we have recorded against the Petitioner. The writ petition warrants

dismissal on this ground too.

7. Accordingly, in both the grounds, the Writ Petition warrants dismissal. The Writ Petition is accordingly dismissed and stands disposed of with all pending applications.