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C.A.No. 5250 OF 2002
ITEM No.104

Court No. 8

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 5250 of 2002

Union of India & Ors.

...

Appellant (s)

VERSUS

Safdarjung H.O.T.T.S. Association & Ors.

...

Respondent (s)

(With office report)

Date : 19.8.2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT
HON'BLE MR. JUSTICE D.M.DHARMADHIKARI

For Appellant (s) Mr. D.S.Mahra, Adv.

For Respondent (s)Mr. R.K.Maheshwari, Adv.

UPON hearing counsel the Court made the following
O R D E R

The civil appeal is disposed of in terms of the signed order placed on the file.

(Shashi Sareen)
Court Master

(Vijay Dhawan)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5250 OF 2002

UNION OF INDIA & ORS.

...

Appellant (s)

Versus

SAFDARJUNG H.O.T.T.S. ASSOCIATION & ORS.

...

Respondent(s)

O R D E R

Heard learned counsel for the parties.

The Union of India, the Director General of Health Services and the Medical Superintendent, Safdarjung Hospital have filed this appeal questioning the legality of the order passed by the Division Bench of the Delhi High Court in CWP No. 7043/2000. The challenge in the writ petition was to the order passed by the Principal Bench of the Central Administrative Tribunal (in short the 'CAT') at New Delhi dated 30th May, 2000. The claim by the present respondents before the tribunal was that the appropriate scale of pay on the basis of the recommendation of the 5th Pay Commission was not granted to the concerned employees. The Central Administrative Tribunal seems to have referred only to the fact that in certain other Central Government hospitals as well as the hospitals run by the Govt. of NCT in Delhi, the scale of pay of Rs. 5000-8000/- was being given without insisting upon any pre-educational qualification and therefore there is no reason to deny the benefit to the present respondent nos. 2 to 10. As noted above, the High Court dismissed the writ petition. The order reads as follows:

"We do not find any legal infirmity in the order passed by the Central Administrative Tribunal, Principal Bench, New Delhi, dated 30th May, 2000 which will require interference of this Court in exercise of powers under Article 226 of the Constitution of India. The present petition is accordingly dismissed in limine."

Mr. P.R.Malhotra, learned ASG submitted that the Central Administrative Tribunal did not take note of the First Schedule to the Central Civil Service (Revised Pay) Rules, 1997 and in particular to Rules 3 and 4 of the said rules. It was his stand that in respect of post/grade S-7 the revised scale was Rs.4000-100-6000/- as against three categories of the pre revised scales. According to him the scale of Rs.5000-150-8000/- was applicable to S-9 post/grade. It was pointed out that the said benefit given to O.T.Technicians working in various institutions under Govt. of India, to which reference has been made by the Central Administrative Tribunal in its order dated 30.5.2000 has been subsequently withdrawn.

In response learned counsel for the respondents submitted that the First Schedule consisted of two parts and in Part 'B' there is a specific reference to the O.T.technicians staff and the appropriate scale has been indicated to be Rs. 5000-150-8000/-. We find that neither the Tribunal nor the High Court examined the matter in detail. Therefore we remit the matter to the Tribunal for consideration of all relevant aspects. We make it clear that we have not expressed any opinion on the merits of the case. The approach of the High Court also does not have our approval, in view of the fact that after the decision of this Court in L.Chandra Kumar Vs. Union of India (1997) 3 SCC 261, the Tribunal's order can be subject to the proceedings under Article 227 of the Constitution of India, 1950 (in short the Constitution) and therefore the least that is required is the indication of reasons for disposing of the writ petition filed endorsing correctness of the impugned order of the tribunal. The appeal is accordingly disposed of without no order as to costs.

.....J.

(ARIJIT PASAYAT)

.....J.

(D.M.DHARMADHIKARI)

New Delhi,
August 19, 2004.