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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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W.P.(C) 14162/2009 & CM APPL 16330/2009

S K TANDON AND ORS

..... Petitioners

Through: Mr. Jagmohan Sabharwal, Senior
Advocate with Mr. K.K. Bhuchar, Advocate

versus

**GOVERNMENT OF NATIONAL CAPITAL
TERRITORY OF DELHI AND OTHERS**

..... Respondents

Through: Mr. Amiet Andley, Advocate

CORAM: JUSTICE S. MURALIDHAR

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| 1. | Whether reporters of the local newspapers be allowed to see the judgment? | No |
| 2. | To be referred to the Reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | No |

ORDER
12.05.2010

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1. The decision of the Government of National Capital Territory of Delhi ('GNCTD') to withdraw the facilities and reimbursement of electricity and water charges, reimbursment of petrol/diesel charges and payment of sumptuary allowance to the President and Members of the District Consumer Disputes Redressal Forum ('DCDRF') in the NCT of Delhi by a communication dated 17th August 2009 is under challenge in this writ petition.

2. The Petitioner Nos. 1 to 8 are working as Presidents of the DCDRF in Delhi. Petitioner Nos. 9 to 11 were earlier holding these posts and have since

retired after completing their tenure.

3. The facts relating to the Petitioner No. 1 are alone set out since the facts in relation to other Petitioners are not very different, excepting the dates. By an Office Order dated 22nd November 2004 the Petitioner No.1 was appointed as President of the DCDRF, Delhi on whole-time basis for a term of five years or till he attains the age of 65 years whichever is earlier. It was stated that salary, allowances and other perquisites of appointment would be governed by the provisions of the Delhi Consumer Protection Rules 1987 ('DCP Rules') as amended from time to time. The other terms and conditions of his service were to be regulated through the orders issued by the competent authority in accordance with the Consumer Protection Act 1986 ('CP Act') read with DCP Rules.

4. Rule 3 (1) (a) of the DCP Rules which is relevant for the purposes reads as under:

“3. Salaries and other allowances and terms and conditions of the President and Members of the District Forum:

(1) (a) The President of the District Forum shall receive the salary, allowances and other perquisites as are admissible to a sitting Judge of the District Court, if appointed on whole time basis; or an honorarium of two hundred rupees per day, if appointed on part time basis.

Note: When a retired District Judge is appointed as President of the District Forum, his salary, allowances and other perquisites, shall be subject to the Rules governing the payment of pension of such retired District Judge.”

5. Pursuant to the acceptance and the recommendations of the First National Judicial Pay Commission regarding revision of pay scales of judicial officers, an order was issued by the Secretary (Law, Justice and Legal Affairs), GNCTD on 21st June 2006 communicating the approval of the Lieutenant Government ('LG') of the NCT of Delhi to the grant of the following facilities to the officers of the Delhi Higher Judicial Service/Delhi Judicial Service:

“1. Reimbursement of electricity and water charges paid by the Judicial Officers for their residential accommodation, to the extent of 50% of the bill, subject to a cap of 8000 units of electricity per annum and 35 kilolitres of water per month for the officers of the Delhi Higher Judicial Service, and 6000 units of electricity per annum and 28 kilolitres of water per month for officers of the Delhi Judicial Service, minus amount already paid, if any, under this allowance, w.e.f. 1st November 1999,

2. Reimbursement of the price of 100 litres of petrol/diesel charges for officers of the Delhi Higher Judicial Services and 75 litres of petrol/diesel for the officers of Delhi Judicial Service, per month, minus amount already paid, if any, under this allowance w.e.f. 1st November 1999. Provision of liberal soft loans with interest @ 8% per annum as motor car advance up to a ceiling of Rs. 2.5 lacs with convenient instalments for repayment.

3. Payment of sumptuary allowance @ Rs. 1000/- per month for District/Additional District & Sessions Judge, Rs. 750/- per month for Civil Judges (Senior Division) and Rs. 500/- per month for Civil Judges (Junior Division), minus amount already paid, if any, under this allowance w.e.f. 1st November 1999.

4. Payment of Medical Allowance @ Rs.100/- per month to all

the Judicial Officers, both serving and retired, in addition to the other benefits set out in the Shetty Commission Report, w.e.f. 8th May 2006 and

5. Payment of Rs. 1250/- per month for providing a home-cum-office orderly at the residence of the Judicial Officers w.e.f 8th May 2006.”

6. The Petitioners claimed that they should, consistent with the DCP Rules, be granted the same facilities as applicable to the Judges of the District Courts and accordingly made a representation to the GNCTD seeking extension of three of the benefits to them viz., reimbursement of electricity and water charges, reimbursement of 200 litres of petrol/diesel and payment of sumptuary allowance. A reminder was sent on 6th November 2008. The Petitioners pointed out that Members of the Sales Tax Appellate Tribunal, who were similarly placed, had already been granted the facilities.

7. By the impugned order dated 17th August 2009 the Petitioner No. 1 was informed that the matter had been considered by the GNCTD and it had been decided not to accede to the demand for extension of the above three facilities. The reason given was as under:

“Keeping in view the pay and allowances/remuneration being given to the Presidents of the District Consumer Disputes Redressal Forum in all the States and Union Territories of the Union of India and its comparison with the NCT of Delhi, the Government is of the view that the Presidents of the District Consumer Disputes Redressal Forum in the NCT of Delhi has been extended Super Time Scale of District & Sessions Judges i.e. Rs. 22850-500-24850/- (pre-revised) less pension and they

are also being provided with the Transport facility for to and fro journey from residence to the District Forum and hence they are being paid on better footing in comparison to the other Presidents of District Fora throughout India.”

As regards the reimbursement of 50% of the electricity and water charges to the Judicial Members of the Sales Tax Appellate Tribunal, to which a reference has been made by the Petitioner, it was stated that “exception cannot be made a rule applicable to all the Presidents of the District Fora.”

8. In the counter affidavit filed by the Respondents, the reasons set out in the impugned order have been reiterated. It is stated that when compared with the salary and allowances being paid to the Presidents and Members of the DCDRFs in other States and Union Territories, it was found that the facilities provided by the GNCTD were much higher. A comparative chart showing the facilities granted by various states has been set out in para 5 of the counter affidavit. It is submitted that decision of the GNCTD in this context cannot be held to be arbitrary or unreasonable.

9. This Court has heard the submissions of Mr. Jagmohan Sabharwal, learned Senior counsel appearing for the Petitioners and Mr. Amiet Andley, learned counsel appearing for the Respondents.

10. Rule 3 (1) (a) of the DCP Rules clearly states that perquisites admissible to a sitting Judge of the District Court, if appointed on a whole-time basis, shall be available to the President of the DCDRF. The travelling allowance and daily allowance on official tour are separately provided for under Rule 3

(2) of DCP Rules and leave facilities under Rule 3 (2) (A) thereof. It is not possible to interpret the words “Judge of the District Court” to mean Judge of any district court in the country. It is obvious that this a provision inserted in the DCP Rules for Delhi. The DCP Rules defines ‘administration’ to mean the “administration of the Union Territory of Delhi” and ‘Administrator’ to mean “Administrator of the Union Territory of Delhi appointed by the President under Article 239 of the Constitution”. ‘State’ has been defined to mean “Union Territory of Delhi” and ‘State Commission’ to be “the Delhi State Commission”. Therefore, the words “Judge of the District Court” in Rule 3 (1) (a) of the DCP Rules obviously mean a Judge of a District Court in Delhi. It was misconceived on the part of the GNCTD to analyze and compare the facilities and salaries paid to the President of the Consumer Forums in other states in order to determine the Petitioners’, as the Presidents were entitled to the perquisites made available to the judges of the District Courts. This is not permissible under the DCP Rules or the CP Act.

11. Yet another ground on which the Petitioners cannot be denied the above benefit. At the time of their appointment the DCP Rules were already in force which contained the above provision. The Petitioners accepted their appointments on the understanding that they would be extended the same perquisites as are available to the Judges of the District Courts in Delhi. Now to take that benefit away would be altering the terms and conditions of their service after their appointment. This is not permissible in law.

12. In that view of the matter, the refusal by the GNCTD by the impugned

order dated 17th August 2009 to withdraw the three facilities as mentioned in the said letter is untenable in law. The said decision is hereby quashed. It is directed that the above three facilities should be made available to the Presidents of the DCDRF in Delhi with effect from the same date on which the facilities were made available to the judicial officers of the Delhi Higher Judicial Services/Delhi Judicial Service in terms of the order dated 21st June 2006 of the Secretary (Law & Legal Affairs), GNCTD.

13. With the above directions, the writ petition and the pending application are disposed of.

14. Order be given dasti to learned counsel for the parties.

S.MURALIDHAR, J.

MAY 12, 2010
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