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

% ***Judgment dated: 5th September, 2016***

+ W.P.(C) 7066/2016 and C.M.No.29075/2016 (stay)
REWATI PRASAD & ANR.

..... Petitioners

Through: Mr.M.K.Bhardwaj, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Sanjeev Narula, Mr.Rishabh Sahu
and Mr.Ajay Kalra, Advocates.

AND

+ W.P.(C) 7068/2016 and C.M.No.29081/2016 (stay)
DEEPAK KUMAR & ORS.

..... Petitioners

Through: Mr.M.K.Bhardwaj, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Sanjeev Narula, Mr.Rishabh Sahu
and Mr.Ajay Kalra, Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

1. The petitioners in both the writ petitions challenge a common order passed by the Central Administrative Tribunal dated 2nd August, 2016 by which the O.As filed by the petitioners seeking a direction for absorption stand rejected. The petitioners had urged before the Tribunal as also before this Court that the repatriation of the petitioners was premature and only

with a purpose to deprive them of their right to seek absorption.

2. When the matters were listed before this Court on 19th August, 2016, we had raised a query to learned counsel for the petitioners as to whether the petitioners had joined their parent departments after the orders of repatriation had been passed by the respondents on 13th May, 2016, this Court was assured that the petitioners would join their parent departments by the afternoon of 19th August, 2016. We are happy to note that the petitioners have joined their parent departments.

3. The learned counsel for the petitioners on instructions from the petitioners, who are present in Court, submits that in view of the fact that they had joined their parent departments, the only relief sought is that their salaries for the period from 14th May, 2016 upto the date of joining be released. Mr.Bhardwaj, learned counsel for the petitioners submits that the Court may take into consideration that during the pendency of the O.A. interim protection had been granted. However, the respondents had passed relieving orders on 13th May, 2016.

4. We may notice that after the passing of the relieving orders, the petitioners had approached the Tribunal for continuation of the interim protection which was declined. A writ petition was filed in this Court on 27th June, 2016 during the vacations, when the following order was passed by the Vacation Bench:

“O R D E R
27.06.2016

CM No.23666/2016

Exemption allowed subject to all just exceptions.
Application stands disposed of.

W.P.(C) 5737/2016 & CM No.23665/2016

Notice. Counsel as above accepts notice on behalf of respondent No.1 and seeks time to take instructions. Let notice be issued to the other respondents, returnable on 7th July, 2016 before the Roster Bench. Till the next date of hearing the respondents shall not insist on the joining of the petitioners at the place of posting.”

(Emphasis supplied)

5. However, when the writ petitions came up for hearing before the Regular Bench on 8th July, 2016, the following order was passed and the Court had continued the interim order passed by the Vacation Bench till the hearing of the O.A.

“15. To meet the ends of justice, we dispose of the present writ petitions with a direction to the Registrar, Central Administrative Tribunal, to list the MA and the contempt petition before the appropriate bench as soon as the Bench assembles, as we are informed that one of the Members is not available. However, should the Bench not assemble within one week from today and in case the judgment is not pronounced within one week from today, we request the Chairman, Central Administrative Tribunal, to form a Bench to hear the MA and the contempt petition.

16. Accordingly, the interim protection granted to the petitioners on 27.6.2016 by this Court shall continue till the appropriate Bench is constituted and the application is heard. We also request the Bench, which has reserved the judgment to render the judgment within a period of four weeks from today.

17. Both the writ petitions stand disposed of.”

6. Prayer made by Mr.Bhardwaj is opposed by counsel for the respondents.

7. Heard.

8. The request of Mr.Bhardwaj, learned counsel for the petitioners can be considered only partly in view of our order dated 8th July, 2016. As the interim protection granted in favour of the petitioner was vacated and

thereafter the Vacation Bench had again granted protection to the petitioner. Accordingly, the petitioners would be entitled to salaries for the period protection was granted by this Court i.e. between 27th June, 2016 and 2nd August, 2016 hence salaries for this period shall be paid to them by the respondents without adjustment. For the remaining period, we grant leave to the petitioners, as prayed, to make representations to the respondent No.4. We hope that the representations filed by the petitioners would be considered by respondent No.4 sympathetically.

9. Mr.Bhardwaj also submits that the petitioners would make a representation to the respondents not to pass posting orders in middle of the session as the children of the petitioners are studying in different schools and are in the midst of their sessions and in case the petitioners are posted to different places, the children would lose a year and their studies would be disturbed.

10. In case any such representation is made on behalf of the petitioners, we are hopeful that the respondent No.4 would consider each representation depending on the facts of each case and take a sympathetic view of the matter.

11. With these observations, both the writ petitions are dismissed as not pressed.

G.S.SISTANI
(JUDGE)

I.S. MEHTA
(JUDGE)

SEPTEMBER 05, 2016/ 'dc'