

\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6599/2016**

Date of Decision : 21th February, 2017

ANIL KUMAR SHARMA & ORS. Petitioners
Through Dr. Ashwani Bhardwaj, Advocate

versus

BIMAL JULKA & ANR. Respondents
Through Mr. Rajesh Gogna, CGSC for R-1
Mr. S. M. Arif, Advocate with Mr. M.
R. Junaidi and Ms. Shabnam
Perween, Advocates for R-2

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL):

Having heard learned counsel for the petitioners, we are not inclined to interfere with the impugned order dated 19.04.2016 passed by the Principal Bench of the Central Administrative Tribunal ('Tribunal' for short) in C.P. No.443/2015 in OA No. 4191/2013, titled Anil Kumar Sharma & Ors. Vs. Bimal Julka & Anr..

The order under challenge holds that there was substantial compliance and the petitioners', if aggrieved, could challenge the orders passed in accordance with law.

2. The Tribunal disposing of OA No. 4191/2013 vide dated

28.01.2015, had directed the authorities to extend the benefit as extended by the Patna Bench of the Tribunal in OA No. 514/2002 in Akashwani & Doordarshan Diploma Engineers Association through its President Vs. UOI & Ors.

3. The operative portion of the order dated 07.09.2009 passed by the Patna Bench of the Central Administrative Tribunal in OA No. 514/2002 reads as under:-

“9. This O.A. is, therefore, allowed. The respondents are directed to grant the applicants the pay scale of Rs.8000-13500 as and when they have completed 12 years service in the pay scale of Rs.6500-10500. The arrears should also be paid to the applicants. The respondents are directed to issue orders regarding ACP promotion to the applicants within a period of two months from the date of receipt of a copy of this judgment. The arrears may be calculated and paid to them within one month thereafter.

10. With these directions, this O.A. stands disposed. No costs.”

4. This order dated 07.09.2009 passed by the Patna Bench of the Central Administrative Tribunal in OA No.514/2002 was made the subject-matter of challenge before the Patna High Court in CWJC No. 6451/2010 titled The Union of India & Ors. v. Akashwani and Doordarshan Diploma Engineers’ Association. This writ petition was disposed of vide order dated 25.08.2010, observing that there was

substance in the submission made by the Union of India and that general directions should not have been issued to cover cases of all individuals because each case requires consideration under the ACP Scheme. The Union of India was directed to consider grant of benefit under the ACP Scheme to the applicants before the Tribunal in OA No.514/2002 within a period of three months in accordance with law and subject to the observations made in the said decision.

5. The case of the respondents is that they have considered each individual case and thereafter passed the speaking orders dated 13.10.2015 denying the claim of the petitioners.

6. We agree with the Tribunal that the petitioners cannot challenge the orders dated 13.10.2015 in the contempt proceedings. The scope and ambit of contempt proceedings is limited and restrict to question of implementation and wilful disobedience. The petitioners have been granted liberty to file a fresh OA, challenging the order dated 13.10.2015. They may rely on perceived relevant orders and judgments in support of their contention.

7. We are not inclined to make any observations on merit.

8. It is open to the petitioner to challenge the order dated 13.10.2015 by way of an independent original application.

9. At this stage, learned counsel for the petitioner submits that the petitioners were *bona fide* pursuing contempt proceedings as per advice received. He submits that a fresh original application would be barred by limitation and prays for suitable directions. We accept the prayer made by the counsel for the petitioners and grant the petitioners liberty to file a fresh original application within one month and on the

same being filed, the original application will not be dismissed on the ground of limitation.

10. The writ petition is disposed of. There will be no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 21, 2017

b