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

+ **W.P.(C) 1291/2015**

ASSOCIATION OF 31 TROLEY RETRIEVERS OF DIAL

THROUGH THEIR REPRESENTATIVE & ANR Petitioners

Through Dr Sumant Bhardwaj, Mrs Mridula Roy,
Mr Sagar Roy, Advocates.

versus

UNION OF INDIA & ANR

..... Respondents

Through Mr Bhagvan Swarup Shukla, CGSC with
Mr Kamaldeep, Advocate for UOI.

Mr Abhinav Vasisht, Sr. Advocate with
Mr Milanka Chaudhary, Mr Abhinav Agnihotri,
Mr Biswajit Choudhary, Ms Abhilasha Singh,
Advocates for R2 (DIAL).

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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05.02.2018

1. Petitioner nos. 1 and 2 are associations of workmen who claim that they were working as Trolley Retrievers at Indira Gandhi International Airport; whereas petitioner no.1 represents 31 Trolley Retrievers, petitioner no.2 claims to represent 23 trolley Retrievers.

2. The petitioners have filed the present petition, *inter alia*, praying as under:-

- a. Execute the order and judgment of the Hon'ble Delhi High Court's order dated 22.07.2014 in Civil Writ Petition No. 5283/2012 following the judgment of the Hon'ble Supreme Court dated 15.09.2011 in Civil Appeal No. 7876/2011

within a fixed time limited of one month or any other time frame deemed fit and proper in the facts and circumstances of the present case;

- b. Pay the petitioner No.1 interest @ 12 % per month for 22 months on Rupees five lakhs which had to be paid within three months of 15.9.2011 and if the said amount was not paid within the prescribed period then it would carry interest at the rate of 12% per month from that point till the amount is paid as stated in para 89 of the Supreme Court Judgment and;
 - c. Pay the petitioner No.2 a compensation of Rs.5 lakhs and also 12% interest per month for the delay months on Rupees five lakhs which had to be paid within three months of 15.9.2011 and if the said amount was not paid within the prescribed period then it would carry interest at the rate of 12% per month from that point till the amount is paid as stated in para 89 of the Supreme Court Judgment and;
 - d. Carry out the directions of the Hon'ble High Court of Delhi based on the directions of Hon'ble Supreme Court in paragraph 86 and 87 of its judgement to regularise the employment of workers already employed in retrieval of trollies as its employees.”
3. Petitioner no.1 claims interest @ 12% per annum on the compensation of Rs.5 lakhs received by its members in terms of the order dated 15.09.2011 passed by the Supreme Court in Civil Appeal No. 7876/2011 and other connected matters.
4. Petitioner no.2 claims that the 23 workmen constituting the petitioner no.2 association are also entitled to the compensation as directed by the Supreme Court. Since the aforesaid compensation has not been paid to them, they are claiming the same with interest in terms of the above mentioned order dated 15.09.2011.

5. There is no dispute that the 31 members of petitioner no.1 association were employed by M/s TDI International Pvt. Ltd. (hereafter 'TDI') for carrying out the work of Trolley retrieval at IGI airport. Admittedly, the aforesaid 31 workers have also received the compensation of ₹5 lakhs each as directed by the Supreme Court. Thus, they have limited their relief in this petition to claim interest on the said amount of compensation. Respondent no.2 (Delhi International Airport Ltd. - hereafter 'DIAL') disputes that it is obliged to pay any interest as it contends that the delay in receiving compensation is entirely attributable to the workmen and no such interest is payable in terms of the order of the Supreme Court.

6. After some arguments, Dr Bharadwaj, the learned counsel appearing for the petitioners states that petitioner no.2 may be deleted from the array of parties. He states that petitioner no.2 represents 23 Trolley Retrievers who were not included in the 136 workers in respect of whom the Supreme Court had directed payment of a consolidated sum of ₹5 lakhs each. He states that it was mentioned before the Supreme Court that the names of twenty four workers were not included; however, the order passed by the Supreme Court on 15.09.2011 has specifically directed payment to 136 workers only. He states that petitioner no.2 (which is an association of 23 workers) would necessarily have to approach the Supreme Court for rectification/modification of the order dated 15.09.2011 in order to claim any relief.

7. In view of the above, petitioner no. 2 is deleted from the array of parties.

8. The directions contained in order dated 15.09.2011 passed by the Supreme Court in CA No. 7876/2011 captioned ***Indira Gandhi Airport TDI Karamchari Union v. Union of India & Ors*** is clear and the court has only directed payment of a sum of ₹5 lakhs each to 136 workers who were working for TDI as Trolley Retrievers since 2003. The operative part of the said order is set out below:-

“88. In view of the peculiar facts and circumstances of these cases directing DIAL to regularize services of trolley retrievers who worked with DIAL till 2003 would be harsh, unrealistic and not a pragmatic approach, therefore, in the interest of justice, we deem it proper to direct DIAL to pay Rupees five lacs to each of the erstwhile 136 workers of DIAL who were working for them as trolley retrievers till 2003 and in case any worker has expired, then his or her legal heirs would be entitled to the said amount. This compensation is paid to the workers in lieu of their permanent absorption/reinstatement with DIAL and their claim of back wages, This is in full and final settlement of entire claims of erstwhile 136 workers of DIAL.

89. We direct DIAL to pay the amount to these 136 erstwhile workers of DIAL within three months after proper verification. In case the amount, as directed, is not paid within the prescribed period, then it would carry interest at the rate of 12% per month from that point till the amount is paid.”

9. In view of the above, the limited question that falls for consideration of this Court is whether the thirty one workers, who are members of the petitioner no.1 association, are entitled to interest on the compensation of Rs.5 lakhs paid to them in terms of the order dated 15.09.2011 passed by the Supreme Court.

10. A plain reading of paragraph 88 and 89 of the aforesaid order indicates that the Supreme Court had directed DIAL to pay a sum of Rs.5 lakhs to the erstwhile Trolley Retrievers who were employed through a contractor (TDI). The said compensation was to be paid within a period of three months after proper verification.

11. It is DIAL's case that none of the 136 workers submitted the necessary documents for verification, as the "*Indira Gandhi Airport, TDI Karamchhari Union*"(hereafter 'the TDI Union') - which was representing the said workmen - had filed a review application seeking review of the order dated 15.09.2011. DIAL had also sought review of the order dated 15.09.2011. The said applications were dismissed by the Supreme Court by a common order dated 14.02.2012.

12. The TDI Union had, thereafter, preferred a curative petition bearing no. 171/2012.

13. After the applications for review of the order dated 15.09.2011 had been dismissed by the Supreme Court, DIAL initiated the process for verification of 136 workers. It is claimed that DIAL sent letters to all 136 workmen on the addresses as provided by the TDI Union, requesting for documents for verification. It is not disputed that the copies of such letters were also marked to the General Secretary of the TDI Union. However, most of the workmen did not come forward to claim the compensation perhaps for the reason that the curative petition preferred by TDI Union (Curative Petition No. 171/2012) was pending before the Supreme Court.

14. The Curative Petition (C) No. 171/2012 was also dismissed by the

Supreme Court on 29.11.2012.

15. Subsequently, some of the workmen preferred contempt petitions (two in number - bearing nos. C.P. 212/2013 & 213/2013) before the Supreme Court alleging violation of the order dated 15.09.2011, inasmuch as the compensation of Rs.5 lakhs as directed had not been paid. Contempt Petition Nos. 212/2013 was preferred by 25 workmen and Contempt Petition No. 213/2013 was preferred by the TDI Union. The prayers made in the said petitions are similarly worded and the same are set out below:-

“(a) Pass an order holding Respondents jointly and/or severally liable for contempt of this Hon'ble Court's order dated 15.09.2011 in Civil Appeal No. 7876/2011.

(b) Pass an order directing Respondents to make immediate payment of the dues of the petitioners along with interest @ 12% per month from the date of order dated 15.09.2011 till the date of payment of the Petitioners Dues.”

16. It is not disputed that DIAL contested the aforesaid contempt petitions on the ground that DIAL was ready and willing to pay the compensation but the verification had been delayed on account of the workmen. DIAL also claimed that they had prepared demand drafts for paying compensation to those workmen whose credentials had been verified. The Supreme Court dismissed the Contempt Petitions filed by the TDI Union by an order dated 18.11.2013 which reads as under:-

“Applications for impleadment filed in these contempt petitions are rejected.

We are not inclined to proceed in the contempt matter any further.

It is stated that 7 bank demand drafts have been drawn in the name of Baharat Kumar, Ashok Kumar, Narendra Kumar, Patras, Rafat Noor, Nitin Kumar and Darshan Singh by Delhi International Airport (P) Ltd. (for short 'DIAL').

It is stated that Rafat Noor and Nitin Kumar are present in the Court. They have been identified by the Union leader. The bank demand drafts may be disbursed to them.

As regards the other bank demand drafts are concerned, DIAL will retain them and as and when the concerned workmen or their heirs come to claim that, the same shall be disbursed to them by it.

With the aforesaid directions, these contempt petitions stand disposed of.”

17. It is apparent from the above that the Supreme Court did not entertain the request for interest; however, DIAL was called upon to retain the bank drafts with regard to other workers and to hand over the same as and when claims were made by the workers or their legal heirs.

18. DIAL has also filed a tabular statement indicating the dates on which the 131 (of the 136 workmen) had collected the compensation payable to them. It is seen from the said tabular statement that a substantial number of workmen had collected the demand drafts in the year 2012 and the remaining had collected their compensation on various dates in the year 2013. The tabular statement also indicates that the demand drafts for compensation payable to the remaining five workmen were prepared, however, the same were not collected.

19. The Supreme Court's direction that the disbursement was to be made after due verification is not ambiguous. In view of the facts stated above, this Court is not persuaded to accept that the delay in paying the

compensation beyond the period of three months, as directed by the Supreme court in its order dated 15.09.2011, is attributable to DIAL.

20. It is also apparent that the Supreme Court had not entertained the prayer made for interest on compensation. Thus, the relief claimed by petitioner no.1 cannot be granted. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

FEBRUARY 05, 2018/pkv