

Itthape Pandit Kishanrao And Ors vs Union Of India And Ors on 5 October, 2020

Author: Rajiv Sahai Endlaw

Bench: Rajiv Sahai Endlaw, Asha Menon

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6548/2020

ITHAPE PANDIT KISHANRAO AND ORS Petitioners

Through: Mr. Ankur Chhiber, Adv.

Versus

UNION OF INDIA AND ORS Respondents

Through: Mr. D.S. Mehandru, Adv. with Mr.

Lalit Kapoor, Dy. Secretary (Pers.-II),
Ministry of Home Affairs.

AND

+ W.P.(C) 6989/2020

VIPUL PANDEY AND ORS Petitioners

Through: Mr. Ankur Chhibber, Adv.

Versus

UNION OF INDIA AND ORS Respondents

Through: Mr. Rahul Sharma & Mr. C.K. Bhatt,
Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% 05.10.2020

[VIA VIDEO CONFERENCING]

1. In pursuance to our earlier order dated 17th September, 2020 in W.P.(C) No.6548/2020, Mr. Lalit Kapoor, Deputy Secretary (Pers.-II Division), Ministry of Home Affairs (MHA) appears and we have heard him. We have also impressed upon him the necessity to act in consonance with the policy of the Government of India, to reduce rather than encourage litigation and the need to, while dealing with representations of personnel of Central Armed Police Forces claiming the same relief as already granted by the Court in a petition filed by those stated to be similarly situated as the representationists, (a) if find the representationists to be indeed similarly situated as the personnel to whom the relief has already granted by the Court and if the relief already granted has attained finality and is of the nature which is the entitlement of all those similarly placed as the successful petitioners, grant the same relief, instead of rejecting the representations by merely stating that the judgment of the Court is in personam; (b) if find the representationists to be indeed similarly situated as the personnel to whom the relief has already granted by the Court and the relief is of the nature which is the entitlement of all those similarly placed as the successful petitioners, but has not

attained finality either for the reason of further challenge thereto being intended or otherwise, inform the representationists so and further inform the representationists that the representation will be considered after the outcome of the remedy intended to be taken is known, instead of rejecting the representation by merely observing that the judgment is in personam; (c) if do not find the representationists to be similarly situated to those who have been granted the relief, to reject the representation setting out the specific reasons so that the representationists if not satisfied therewith can make a specific challenge to those reasons and the Court in which the challenge is presented also knows the exact nature of the challenge; and, (d) only if of the opinion that the relief granted in one case is in personam and other personnel claiming the same relief though similarly situated as those to whom the relief has been granted, reject the representation giving specific reasons why the apparent discrimination in the matter of emoluments is justified.

2. We have also impressed upon Mr. Lalit Kapoor, Deputy Secretary (Pers.-II), MHA that the aforesaid would not compel the CAPF personnel to spend time and money, while posted at far of destinations, in uncalled for litigations and will also reduce the unnecessary burden on the Courts owing to being faced with repeat petitions caused by rejections of representations without application of mind and/or without giving specific reasons.

3. Mr. Lalit Kapoor, Deputy Secretary (Pers.-II), MHA as well as Mr. D.S. Mehandru, Advocate for the respondents in W.P.(C) No.6548/2020 inform that remedial steps have already been initiated and would be taken to ensure that specific replies giving reasons are given in response to the representations.

4. The counsel for the respondents states that the respondents are in the process of filing a petition seeking review of the order dated 27th September, 2019 dismissing the Special Leave Petition (SLP) preferred against judgment dated 9th April, 2019 in W.P. (C) No.1358/2017 titled Shyam Kumar Choudhary Vs. Union of India before the Supreme Court, positively within this week and will have the same listed at the earliest and seeks adjournment by three weeks.

5. The counsel for the petitioners states that the petitioners in W.P.(C) No.6548/2020 belong to the same batch as the petitioners in Shyam Kumar Choudhary supra and once the SLP preferred against the dicta of this Court in Shyam Kumar Choudhary supra was dismissed by the Supreme Court and the judgment has been complied with qua Shyam Kumar Choudhary supra, the petitioners cannot be discriminated against.

6. It is also informed that the petitioners in W.P.(C) No.6989/2020 are of a batch earlier and are also entitled to the same relief. The counsel for the petitioners vehemently opposes the request for adjournment.

7. The counsel for the respondents states that he has till now not obtained instructions also to the effect whether the petitioners herein are similarly placed as the petitioners in Shyam Kumar Choudhary supra.

8. The counsel for the petitioners contends that the said stand is contrary to the stand of the respondents taken on 17th September, 2020 in W.P.(C) No.6548/2020.

9. Having considered the aforesaid contentions, we are inclined to await the outcome, if any, of the review petition but only till the next date of hearing. If by the next date of hearing, the review petition has not been got listed before the Supreme Court, we shall proceed to allow the petitions.

10. List on 6th November, 2020.

RAJIV SAHAI ENDLAW, J ASHA MENON, J OCTOBER 5, 2020 'gsr'