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Kulranjan Toppo vs.tata Power Delhi Distribution Ltd.

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Court : Delhi

Decided On : May-04-2018

Appellant : Kulranjan Toppo

Respondent : Tata Power Delhi Distribution Ltd.

Advocate for Def. : Mr. Sujit Kumar Singh

Advocate for Pet/Ap. : Mr. Raghav Kapoor

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Decision: May 04, 2018 W.P.(C) 4683/2018 & CM180162018 W.P.(C) 4684/2018 & CM180172018 KULRANJAN TOPPO SUNIL DWIVEDI ....Petitioners Through: Mr. Raghav Kapoor, Advocate versus TATA POWER DELHI DISTRIBUTION LTD. ..... Respondent Through: Mr. Sujit Kumar Singh, Advocate CORAM: HON'BLE MR. JUSTICE SUNIL GAUR JUDGMENT (ORAL) In the above-captioned two petitions, challenge is to impugned * + + 1. orders of 15th January, 2018 vide which petitioners Representations have been rejected while observing that petitioner-Kulranjan Toppo is holding the post of DGM (IT) in the Grade Pay of `7600/- and petitioner-Sunil Dwivedi is holding the post of DGM (Finance) in the same Grade Pay, but as per clarification made in paragraph No.5 of Office Order of 3rd October, 2016, the entitlement to Executive Car Facility is only for those employees who are in the Grade Pay of `8900/- and above.

2. Since the challenge to impugned order in these two petitions is on identical grounds, therefore, these petitions have been heard together and are being disposed of by this common order. W.Ps.(C) 4683-84/2018 Page 1 of 4 3. Learned counsel for petitioners submits that Office Order of 3rd October, 2016 is to operate prospectively and cannot be made to operate retrospectively. It is pointed out that petitioners had applied for the Executive Car Facility on 5th September, 2016 and 12th July, 2016 respectively, but the approval was granted by respondent on 7th September, 2016 in case of petitioner-Kulranjan Toppo whereas in case of petitioner-Sunil Dwivedi, the approval was not granted. It is submitted on behalf of petitioners that as per RTI information of 26th September, 2016 by Delhi Transco Limited, the Managers working in the Grade Pay of `7600/- have been provided Executive Car Facility. It is also pointed out by petitioners counsel that as per sub-Rule 7 of Rule 6 of Delhi Electricity Reforms (Transfer Scheme), Rules 2001, the Regulations governing the service condition of the personnel transferred to respondent shall not be in any way less favourable to those applicable to them immediately before they are transferred from DVB to respondent- Company. So it is submitted that denial of Executive Car Facility to petitioners is wholly unjustified.

4. On the contrary, learned counsel for respondent submits that respondent is an independent identity and is not governed by the Delhi Transco Regulations. It is pointed out by learned counsel for respondent that the Office Order of 3rd October, 2016 was clarificatory in nature and the requirement of Grade Pay of `8900/- and above, to obtain Executive Car Facility existed even prior to October, 2016 and by oversight, the benefit of Executive Car Facility was extended to petitioner-Kulranjan Toppo in the year 2012 and the differential amount deposited by W.Ps.(C) 4683-84/2018 Page 2 of 4 petitioner-Kulranjan Toppo in September, 2016 was promptly refunded to him in October, 2016. Attention of this Court is drawn to respondents Executive Car Policy (Annexure P-4 in W.P.(C) 4683/2018) to point out that the entitlement to Executive Car Facility under this Policy is of DGM (M3a) and not of all DGMs. The precise submission of learned counsel for respondent is that the benefit of Executive Car Facility is not part of service condition and this facility is extended by Management in its discretion and it cannot be claimed as a matter of right. So, it is submitted that these petitions deserve dismissal.

5. Upon hearing and on perusal of impugned orders of 15th January, 2018, respondents Executive Car Policy (Annexure-4) and the material on record, I find it difficult to accept that in the year 2012, petitioner- Kulranjan Toppo was granted Executive Car Facility due to oversight. It is so said because only after approval from respondent, the said facility was extended to him. It would be reasonable to so conclude because in respondents Executive Car Policy, the requirement of Grade Pay of `8900/- is not reflected. All that is required as per respondents Executive Car Policy (Annexure-4) is that the concerned Officer has to be DGM (M3a). It is not the case of respondent that petitioners are not DGM (M3a). It is matter of record that petitioners had applied for the Executive Car Facility in question before the Office Order of 3rd October, 2016 came into force.

6. It needs no reiteration that an Office Order is to operate prospectively. In case of petitioners, it is sought to be operated retrospectively on the plea that it is a clarification and not an amendment. W.Ps.(C) 4683-84/2018 Page 3 of 4 Since Executive Car Facility was extended to petitioner-Kulranjan Toppo way back in the year 2012, therefore, it cannot be said that impugned Office Order of 3rd October, 2016 is of clarificatory nature. Otherwise also, Clause 5 of the Office Order of 3rd October, 2016 making Executive Car Policy applicable to employees, who are DGM and above in the Grade Pay of `8900/- cannot be given retrospective effect. Since petitioners are DGM, therefore, they are entitled to the benefit of Executive Car Facility as per respondents Executive Car Policy (Annexure-4).

7. In light of aforesaid, respondent is directed to provide the Executive Car Facility to petitioners upon completion of necessary formalities within a period of six weeks from today.

8. With aforesaid directions, these petitions and the applications are disposed of. MAY04 2018 s (SUNIL GAUR) JUDGE W.Ps.(C) 4683-84/2018 Page 4 of 4

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