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A.I.R. & D.D. Technical Employees Association

(भारत सरकार द्वारा पंजीकृत एवम् मान्यता प्राप्त)
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NO. TEA/2016/DoPT (Secy.)/04

Dated: 26-08-2016

To
The Secretary
DoPT, Govt. of India
North Block, New Delhi-110001

Sub: Regarding issuance of general instructions in view of the judgment of Hon'ble Supreme Court [(2015)1 SCC 347] and order of CAT (PB) dated 28-04-2016.

Ld. Sir,

It is respectfully submitted that time and again it has been impressed upon and reiterated by various **judicial fora** that including Hon'ble Supreme Court of India, that incidents giving rise to litigations, particularly service matters, should be minimized. When the law is well settled and the issue no longer remains **res integra**, the Govt. As a Welfare State should see to it that it is applied uniformly to all and similarly or identically placed persons should automatically get the same relief without resorting to litigation, so as to avoid multiplicity of litigation to better serve the interests of justice. Even if under compelling circumstances the machinery of government is made to face litigation, all out efforts should be done to settle the service disputes by way of out-of-court settlement through negotiations and persuasions due to which a lot of precious administrative time, energy and money can be saved. It will also help towards confidence building and restore faith of the affected employees in the system.

Those Judgments which have universal application are referred to as judgments **in rem** and can be conveniently applied even to those

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employees who could not approach any judicial forum due to one reason or the other.

The Hon'ble Supreme Court in **Uttranchal Forest Rangers' Association (Direct Recruits) Vs. State of U.P. (2006) 10 SCC 346**, while referring to an earlier decision in the case of **State of Karnataka Vs. C. Lalitha reported as (2006)2 SCC 747** has held that **"service jurisprudence evolved by this court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently"**.

Most common hurdle that comes in the way to extend same relief to the employees who did not approach the court, is that the plea of financial implications is always cited as a camouflage to deny the relief granted to other identically situated employees notwithstanding the fact that justice cannot be deprived on the basis of monetary considerations, otherwise it will shake the faith and confidence of public in the judicial institutions and undermine their dignity and efficacy in the administration of justice. On this point, the observations of the Apex Court in service matter titled **Union of India Vs. M.P. Singh** reported as **AIR 1990 SC 1098 (para 8)** can be aptly quoted **"Justice is alert to difference and sensitive to discrimination. It cannot be measured in terms of money"**.

Apart from above, the Hon'ble Supreme Court in **State of U.P. and others Vs. Arvind Kumar Srivastava and Others** reported as **(2015)1 SCC 347** has once again reiterated and reaffirmed the principle by holding that **"when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would be violative of Article 14 of the Constitution"**. The aforesaid normal rule is subject to all just exceptions like latches, delays and acquiescence applicable to fence-sitters.

Based on the principles and rules confirmed in the judgment discussed above, the Hon'ble Principal Bench of CAT, New Delhi in O.A. No. 3775/2015 (**Neeta Dutta Vs. Union of India**) has yet again

echoed the same thing in its order dated 28.4.2016. In its order's para no.6, a copy of the order has been directed to be sent to your good office to follow the dictum laid down by Hon'ble Apex court in **(2015)1 SCC 347**.

Therefore, it is high time that your esteemed office had realized the sensitivity of the matter and released official instructions to be followed by all the departments of Govt. of India to avoid unnecessary and extravagant litigation.

It is prayed accordingly.


(PAWAN KUMAR KOHLI)
GENERAL SECRETARY

Encl: Judgments of the Hon'ble Supreme Court
& CAT (PB) dated 28-04-2016.

Copy to: The Secretary,
MIB, Shastri Bhawan,
New Delhi.

