

No.21011/1/2010-Estt. A
Government of India
Ministry of Personnel, Public Grievances & Pension
Department of Personnel & Training
North Block, New Delhi

Dated the 28th September, 2012.

OFFICE MEMORANDUM

Subject: ACRs with below benchmark grading considered in past DPCs- reg

The undersigned is directed to refer to this Department's OM of even number of even number dated 27th April, 2010.


2 In above mentioned OM dated 27th April, 2010, in the light of Orders issued by Hon'ble Supreme Court in the SLP(Civil) No.15770/2009, Union of India Vs. A.K.Goel & Ors., all the Ministries/ Departments were advised that wherever petitions have been filed in the court to grant relief on the basis of the decision of the Supreme Court in Dev Dutt case (Civil Appeal No. 7631 of 2002), the latest Orders of the Supreme Court in A.K.Goel case may be brought to the notice of the Court.

3. The Supreme Court in the SLP in Uttam Chand Nahta's case(SLP Civil Appeal No.29515 of 2010) by order dated 20/24th December, 2010 not only tagged the SLP with A.K.Goel case but also directed that status quo in the DPC proceedings which was subject matter of dispute before the CAT/High Court, shall be maintained.(copy enclosed) In Uttam Chand Nahta's case, the Supreme Court has duly taken note of Abhijit Dastidar case 2009 (16) SCC 146 while granting stay of the High Court order.

4. In view of above it is reiterated that wherever petitions have been filed in the court to grant relief on the basis of the aforesaid decision of the Supreme Court in Dev Dutt case, the Orders of the Supreme Court in Uttam Chand Nahta's case (SLP Civil Appeal No.29515 of 2010) by order dated 20/24th December, 2010 case may be brought to the notice of the Court. While all such petitions are required to be appropriately defended, the "limitation period" for filing review petition should also be strictly followed.

Encls:A/A.

Km Shukla
PS
25/9/12


(Mohinder Kumar)
Director (E-II)
Ph.23093180

To

1306
28/9/12

All Ministries/ Department of Government of India

Contd...

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Prime Minister's Office, New Delhi.
3. The Cabinet Secretariat, New Delhi.
4. The Rajya Sabha Secretariat.
5. The Lok Sabha Secretariat.
6. The Comptroller and Auditor General of India, New Delhi.
7. The Union Public Service Commission, New Delhi.

Copy also to:-

- (i) All Attached offices under the Ministry of Personnel, Public Grievances and Pensions.
- (ii) Establishment Officer and Secretary, ACC (10 copies).
- (iii) All officers and Sections in the Department of Personnel and Training.
- (iv) NIC (DoP&T) for placing the Office Memorandum on the web-site of DoP&T. (www.persmin.nic.in – under OMs and Orders(Establishment)-ACR
- (v) Hindi Section for Hindi version of the O.M.

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SECTION XVI

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 29515 OF 2010

(with prayer for interim relief)

UNION OF INDIA

....Petitioner

VERSUS

UTTAM CHAND NAHTA & ORS.

..... Respondents

To

1. Shri Uttam Chand Nahta,
S/o Shri Guman Mal Nahta,
Aged about 55 years,
Working as Regional Director,
Ministry of Corporate Affairs,
Kolkata, residing at Flat no. 22,
Type- VI, Nizam Palace, 234/4,
A.J.C. Bose Road, Kolkata-700020

...R. No. 1

2. Shri Rakesh Chandra,
Regional Director,
Ministry of Corporate Affairs,
5th Floor, 100, Marine Drive, Mumbai-400001

...R. No. 2

3. The Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances &
Pension, Proforma North Block, New Delhi-110001

...R. No. 3

4. The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road, New Delhi-110001

... R. No. 4

WHEREAS the petition for Special Leave to Appeal with a Prayer for Interim Relief above-mentioned (Copy enclosed) filed in the Registry by Ms. Sushma Suri, Advocate on behalf of the Petitioner above named was listed for hearing before this Court on 29th November 2010, when the Court was pleased to pass the following order:-

"After taking us through the order of the Tribunal and the impugned order of the High Court, learned Solicitor General appearing for the Union of India has brought to our notice that in similar circumstances this Court has referred the similar issue to a Larger Bench and relied on the reference order of Two Judges Bench dated 29th March, 2010:

"In view of the apparent conflict between the decisions of this Court in Dev Dutt Vs. Union of India & Ors, 2008(8) SCC 725 on the one hand and Satya Narain Shukla Vs. Union of India 2006 (9) SCC 69 and K.M. Mishra Vs. Central Bank of India and others 2008 (9) SCC 120, these appeals are referred to a Larger Bench. Let the matter be placed before the Hon'ble the Chief Justice of India for this purpose"

It is also brought to our notice the decision of three Judges Bench reported in 2009 (16) SCC 146.

In view of the fact that the similar issue/matter has been referred to Larger Bench, we feel that this issue is also be considered by the Larger Bench. Accordingly, we order notice and post the matter along with Civil Appeal of 2010 @ SLP(C)No. 15770 of 2009 etc.

Both the parties are directed to maintain status quo prevailing as on date until further orders.

Counsel of both the parties are permitted to raise all the points before the Larger Bench."

NOW, THEREFORE, TAKE NOTICE that the above petition will be listed alongwith Civil Appeal No. 2872 of 2010 @S.L.P. No. 15770 of 2009 for hearing before the Court in due course when you may appear before this Court either in person or through an Advocate-on-record of this Court duly appointed by you in that behalf within thirty days from the date of service of notice. You may thereafter show cause to the Court on the day that may subsequently be specified as to why special leave and interim relief as prayed for be not granted and the resultant appeal be not allowed.

TAKE FURTHER NOTICE that this Court has passed an interim order pending disposal of Special Leave Petition after notice as follows:

" that until further order status quo as obtaining between the parties on this the 29th day of November, 2010 with regard to the D.P. C. proceedings in question which was the subject matter of dispute before the High court of Calcutta shall be maintained; "

You may file your affidavit in opposition to the petition as provided under Rule 13(1) of Order XVI, SCR 1966 (as amended) within 30 days from the date of receipt of notice or not later than 2weeks before the date appointed for hearing, whichever be earlier, but shall do so only by setting out the grounds in opposition to the questions of law or grounds set out in the SLP and may produce such pleadings and documents filed before the court against whose

the SLP is filed and shall also set out the grounds for not granting interim order or for granting interim order if already granted.

TAKE FURTHER NOTICE that the prayer for interim relief after notice will also be listed before the Court on the aforesaid returnable date.

TAKE FURTHER NOTICE that if you fail to enter appearance as aforesaid, no further notice shall be given to you even after the grant of Special Leave for hearing of the resultant appeal and the matter above mentioned shall be disposed of in your absence.

Dated this the 20th day of December, 2010.

With

[Signature]
ASSISTANT REGISTRAR

dk-2/slp