F.No 11-1/2016-CA-VI
Govt. of India
Ministry of Agriculture & Farmer Welfare
Deptt. of Agriculture, Cooperation & Farmer Welfare
Oilseed Division

480, Krishi Bhawan,
New Delhi
Dated : 23.01.2018

To

Jajna Narayan Padhy
House No. 492/28,
Street No. 8, Opp. Geeta Ashram Road,
Jyoti Park, Gurgaon-122001

Sub: RTI application Registration No. DOA&C/R/2018/50073 dated 22.01.2018 of Sh. J.N.Padhy regarding providing the certified copies of documents in r/o applicability of pension of th petitioner employees of NOVOD Board.

Sir

Please refer your RTI request dated 22.01.2018 received online on the subject mentioned above. In this context, it is to inform you that desired information (i.e the certified photocopies of the note sheets as requestd by you are enclosed herewith) is ~~being~~ sent to you on the following address :-

Jajna Narayan Padhy
House No. 492/28,
Street No. 8, Opp. Geeta Ashram Road,
Jyoti Park, Gurgaon-122001

2. Name and address of the Appellate Authority in r/o this CPIO is as under :

Dr. B.Rajender,
Joint Secretary (OS),
Room No. 297,
2nd Floor, Krishi Bhawan,
New Delhi-110001

Yours faithfully,

(Dr. Anupam Barik)
Additional Commissioner (Oiseeds) & CPIO

Copy forwarded for necessary action to:

1. RTI Cell, DAC, w.r.t RTI Request Registration No. DOA&C/R/2018/50073 dated 22.01.2018 or information
2. SO(Oilseeds), Shastri Bhawan for information and uploading the reply on RTI website of DAC&FW

for Sh. Brajender (JA)

Ministry of Law & Justice
Department of Legal Affairs

FTS No.2970/10/Adv.'B'

The present reference is from Department of Agriculture & Cooperation regarding examining the feasibility for filing of SLP against the order dated 08.04.2010 passed by the Hon'ble High Court of Punjab & Haryana in W.P.No. 17557/2009, in the matter of UOI Ors. Vs. Central Administrative Tribunal and & other.

2. The details of the reference on pre-pages. Order of the Honble High Court is at F/A .

3. The brief facts of the case are that the present reference is related to pensionary benefits. Applicants are the employees of National Oilseeds & Vegetable Oil Development (NOVOD) Board.except applicant no.1 who is the widow of Late Sh. R.K. Dhar, Asstt. Director (OS) of the Board. On death of her husband, she prayed for grant of pension and retirement benefits in support of her claim she cited the case of one Ms. Saraswati Devi, s/o Late Sh. Umesh Jha, she has claimed parity with her in as much as has been allowed pensionary benefits by the Board vide order dt.12.3.1996. But, the same was rejected by the Respondents.

4. Then the petitioners had filed an O.A. before the CAT Chandigarh Bench. The Hon'ble CAT has decided the matter with the following directions as follows :-

"We have given deep consideration to the matter and perused the records placed before us. Since the Board has not made any separate regulation in this regard so far and the provision of NOVOD Board Act, 1988 Regulation 13 as stated above makes it very clear that till such time separate regulations are made for its employees, the employees of the Board are entitled to be paid leave, allowances, pension and retrial benefits etc. in accordance with the rules applicable to the employees of the Central Govt. of similar rank. Therefore, the fact that some other similar institutions are following their own policy, does not make any difference with regard to the entitlements of the employees of the NOVOD Board. The fact that the NOVOD Board Act authorizes the Board to frame its alternative pension scheme/contributory pension scheme does not absolve them to their responsibility of payment of pension to the employees of their dependents (family pension) as per Govt. of India CCS (Pension) Rules, 1972 as the Board was specifically authorized as an autonomous body to shift from non contributory system of pension to contributory system of pension and do not need approval from the Government to do so. Respondents' stand with regard to payment of pension and pensionary benefits to the widow of Sh. Umesh Jha as exceptional case is not justifiable and amounts to discrimination in violation of Article 14 of Constitution of India if such benefit is not granted to other similarly situated persons. In the absence of such scheme in existence in the Board, we are of the considered opinion that the case of the applicant must be considered by the Respondents Board for grant of retiral benefits in accordance with the Rules applicable to the officers and employees of the similar rank of Central Govt., within a period of four months from the date of receipt of copy of this order."

5. Then the referring department had challenged the aforesaid order before the Hon'ble High Court of Punjab & Haryana by way of Writ Petition No. 17557/2009. The Hon'ble High Court has dismissed the same as :-

1 25/04/18

"we are of the view that no case is made out warranting interference of this Court in the order of the Tribunal. Learned counsel for the petitioner has not been able to point out any rule or regulation which might have been framed for governing the service conditions, pay, pension and allowances etc. in respect of the employees of the Board. We repeatedly asked the learned counsel the aforesaid question but no satisfactory answer has been given by him. The writ petition does not merit admission and the same is accordingly dismissed."

6. The referring department has also obtained the views of the Ministry of Finance, Department of Expenditure as follows :-

"Since M/o Finance has not agreed to the proposal of the Deptt. of Agriculture & Cooperation to introduce a pension scheme on GOI pattern for the employees of the NOVOD Board, Gurgaon, it is not understood how the NOVOD Board has set up a pension fund and is making payment of family pension to the wife of lat Sh. Umesh Jha, ex-driver. As the employees of the NOVOD Board are not governed by the pension scheme on GOI pattern, the proposal of the Deptt. of Agri. & Coop. to grant family pension to Smt. Upasana Dhar w/o late Sh. R.K. Dhar can not be agreed to."

7. On the basis of comments of Ministry of Finance, Department of Expenditure the referring Department has desired to challenge the aforesaid order of the Hon'ble High Court.

8. On the perusal of the referring note, order of the CAT and the Hon'ble High Court, that since the judgment of the Hon'ble High Court of Punjab & Haryana is contrary to the policy laid down by the Central Govt. (that precludes the grant of pensionsary benefits to the employees of autonomous bodies) it would be appropriate to question the correctness of the High Court Order by filing an SLP in the Hon'ble Supreme Court.

9. Keeping in view of facts and position as explained above, the matter may be forwarded to the Central Agency Section for soliciting opinion of one of the Ld. Law Officers for examining the feasibility of filing SLP under Article 136 of the Constitution of India.

May kindly see.

30/7/10.
(Kusum Lata Singh)
Asstt. Legal Adviser
30.07.2010

JS & LA (Sh.Satish Chandra)

13/8

JS + LA.

I/c Central Agency Section/Sc.

(विधि कार्य विभाग)
(Deptt. of Legal Affairs)
उप. सं. ..... ए. (वि.)
Dy. No. 2870 Adv. (B)
दिनांक/Date 3/8/10

May kindly give the opinion regarding the feasibility of filing the S.L.P. in the instant case.

T. N. TIWARI
JS & LA
04.08.10

Ld ASG
(Sh. P.P. Malhotra)

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4/8/10

29/07/18

OFFICE OF THE ADDL. SOLICITOR GENERAL
OF INDIA
[SHRI P.P. MALHOTRA]

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[Dy. No.2156/10 dt. 4.8.2010]

248/ASG/PPM/10
17.8.2010

In terms of Section 19 of the National Oilseeds and Vegetables Development Board Act, 1983, the Central Government published Regulations on 27.10.1988. Regulation 13 reads as under:

> *"13. Pay, leave and allowances, etc:- The pay, leave allowances, pension and retirement benefits, othe conditions of service and other facilities anc concessions such as advances of pay, advances fo purchase of conveyances, construction of house and the like in respect of all employees of the Boar shall be regulated in accordance with such rules an orders as are for the time being applicable to officer and employees of the Central Government of th corresponding grades or status stationed at thos places till separate regulations are made by th Board."*

2. The said Regulations besides dealing with pay, leav and allowances, deals with pension and retiremer benefits. It clearly lays down that the pension an retirement benefits shall be the same as available to th employees of Central Government. In teeth of thes regulations which are binding on the Board, it cann escape the liability to pay the pension at par with th pension applicable to Central Govt. employees. Unle the department amends regulations, particular regulation 13 in regard to pension and other retireme benefits, one is bound to pay pension and oth retirement benefits as per regulation 13. No usef purpose will be served by filing SLP.

[P.P. MALHOTR
Addl. Solicitor General of Inc
17th August, 20

2156
18/8/10

Incharge CAS

Sh. Satish Chandra
B + LA

18-8-10

25/8
CAVI (SGS)

38/10
19/8/10

Recd. today at 3-40 pm
In dak

Dir (MOP)
25/8/2010
File returned for immediately
Kingn.a.d for obtaining
orders of Secy (MOP)

Agriculture & cooperation.

C.NO: 2970/2010 AMC (B) SEC

Ministry of Finance
Department of Expenditure
E.V Branch
.....

Department of Agriculture & Cooperation may refer to their notes on preceding pages seeking approval of the Department of Expenditure to their proposal relating to implementation of Hon'ble CAT, Chandigarh Bench Order, dt. 9/2/2009, which was upheld by the Hon'ble High Court of Punjab & Haryana vide judgement dt. 8/4/2010 in Writ Petition filed by Smt. Upasna Dhar & Others.

2. The proposal has been considered in the light of the position brought out in notes at p.91-92/N ante. This Department concurs in the proposal to implement the said Order of Hon'ble CAT, Chandigarh Bench as upheld by the Hon'ble High Court of Punjab & Haryana. The NOVOD Board would, however, have to manage the payment of pensionary benefits to its employees on its own as no additional budgetary support would be provided by the Govt. of India.

3. This issues with the approval of Secretary (Expenditure).

(Suchindra Misra)
Director

Secretary, Deptt. of Agriculture & Cooperation, Krishi Bhawan, New Delhi.
M/o Fin (Exp), ID No. 16(10)/E.V/02, dt. 16/09/2010

16/9/10

20.9.10.

This concerns the issue of payment of pension to the employees of the NOVOD Board. As per noting on 82-83/N, the matter was referred to the Department of Expenditure to consider payment of pension to the Respondents in the case in accordance with the judgement of CAT/High Court of Punjab & Haryana.

2. The file has now been returned by the Department of Expenditure (Page-88/N). DAC has been advised that before implementing the judgment, the instant matter may be referred to Ministry of Law for challenging the High Court judgment as the same is against the policy laid down by the Government and it has implications in respect of other such autonomous bodies.

3. What are the implications of implementing the Court Order? Following details are relevant:

1. Family pension is already being paid to Mrs. Saraswati Devi, W/o late Shri Umesh Jha since 1996.
2. Two of the Respondents in the case are eligible to draw pension on date
   i) family pension in respect of Smt. Upasana Dhar, W/o Shri R. K. Dhar, Asstt. Director in the NOVOD Board who expired in May, 2000.
   ii) Shri M. P. Gupta, Under Secretary who retired in May, 2006.
3. Other than the 3 cases mentioned above, there are 35 employees in the Board on date. Of these 8 are covered under the New Pension Scheme (NPS) having joined on or after 1st January, 2004.
4. The remaining 27 employees of the NOVOD are presently covered under pension scheme as applicable in Government of India by virtue of Act/ Regulation 13 of NOVOD Board Regulations, 1988.
5. The next retirement in the Board is in 2014. Three employees will retire; one in October and two in November of that year.

4. Therefore, given the provisions of the NOVOD Board Act and Regulation 13, it appears a fait accompli to implement the Court Order in respect of atleast 3 employees viz. Smt. Saraswati Devi and Smt. Upasana Dhar (family pension) and Shri M.P. Gupta. However, NOVOD Board can frame regulations governing remaining 27 employees to de-link them from the applicability of Govt. of India pattern of pension. NOVOD Board has already been directed to frame pension regulations in respect of 27 employees and is actively engaged in the process.

5. Normally the Court Order is to be implemented within 3 months of receipt of certified copy of judgment in this case by August, 2010. The advocate of the Petitioner has served a contempt notice regarding non-implementation of the judgment of CAT/High Court of Punjab & Haryana.

6. Following options are available:

1. Implement the judgement. Approval of Department of Expenditure is required for same but it does not agree.

2. File SLP. Approval of Ministry of Law is required but ASG is of view that no useful purpose is served by filing SLP (N-74).

A meeting with Secretary (Expenditure) is proposed at this stage to consider implementation of Court Order to the extent of para 4 of this Note.

4088/JB(TMOP)/10

Upma Chawdhry
(Upma Chawdhry)
Joint Secretary (TMOP)
14.09.2010

3484/AS(AB)/10
14/9/2010

AS(AB)

We may request secy. Expendi to call us & the ministry of Law to discu & resolve this issue immediately otherwise w will be held in contempt.

14

Secretary (A & C)'s Office
2878
Dy. No. 14/9
Date

Secy/(AS)

Advise of D/Exp at 88/N. M/Law h agreed with ASG's opinion. So it perhaps of no use to send it back M/Law on the same point. I think the circumstances we have no option but comply with Hon'ble High Court order. I may kindly concur.

In case you feel it necessary & come over and explain the factual/lega

Secretary (Expenditure)

14

346879-C(R&I)
14/9/10

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USI

Quickly