

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 4th September, 2020.

+ W.P.(C) 1654/2017

INDER KUMAR RAINA Petitioner
Through: Ms. Santwana Agarwal and Mr. Ravi
Rai, Adv.

Versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Vikram Jetly, CGSC.

AND

+ W.P.(C) 1853/2017

VIJENDER SINGH & ORS Petitioners
Through: Ms. Santwana Agarwal and Mr. Ravi
Rai, Adv.

Versus

UNION OF INDIA & ORS Respondents
Through: Mr. Vikram Jetly, CGSC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

CM APPL. 21561/2020 in W.P.(C) 1654/2017 and CM APPL. 21595/2020 in W.P.(C) 1853/2017 (both of the petitioners, for early hearing)

1. Further proceedings in both these writ petitions were adjourned *sine die* vide order dated 25th March, 2019 awaiting the outcome of a matter entailing the same issue, pending in the Supreme Court.

2. These applications have been filed stating that the Supreme Court vide *Union of India Vs. R. Thiyagarajan* 2020 SCC OnLine SC 349 has decided the issue.

3. The counsel for the applicants/petitioners and the counsels for the respondents appearing on advance notice, on enquiry state that in terms of the judgment aforesaid of the Supreme Court, the petitions have to be decided and can be decided today itself.

4. The applications are allowed and disposed of. The writ petitions are ordered to be taken up for hearing today itself.

W.P.(C) 1654/2017 & W.P.(C) 1853/2017.

5. The sole petitioner in W.P.(C) No. 1654/2017 and 319 petitioners in W.P.(C) No. 1853/2017 have filed these petitions (a) impugning the order dated 12th January, 2017 of the respondent no.3 Director General, National Disaster Response Force (NDRF); and, (b) seeking mandamus to the respondents NDRF to pay deputation allowance to the petitioners.

6. The petitions were entertained and pleadings therein ordered to be completed. However thereafter, as aforesaid, the petitions were adjourned *sine die* awaiting decision by the Supreme Court in a matter arising from the High Court of Madras and entailing the same issue.

7. The Supreme Court now, with respect to the petitioner before the High Court of Madras, has held that the entitlement to deputation allowance is w.e.f. 11th September, 2009, till the date the petitioner therein was relieved from service.

8. The counsel for the petitioners states that these petitions be also disposed of directing the respondents to pay deputation allowance to each of the petitioners, w.e.f. 11th September, 2009 and till the date each of the petitioners was relieved from service.

9. The counsels for the respondents have drawn our attention to para 18 of the judgment of the Supreme Court. It appears that the High Court of Madras, in the writ petition filed by the petitioner before it, instead of confining the relief to the writ petitioner before it, issued a direction for payment of deputation allowance to all those similarly placed as the petitioner therein. On grievance with respect thereto being made before the Supreme Court, the Supreme Court in para 18 of its judgment held that the High Court of Madras indeed exceeded its jurisdiction in issuing direction for the entire country, while its jurisdiction was limited to the territorial jurisdiction of the State of which it was the High Court and could not have passed a general direction as was done. Accordingly, the Supreme Court set aside the said direction of the High Court of Madras and the appeal of the Union of India before the Supreme Court was allowed to the said extent.

10. It is the contention of the counsels for the respondents that the 319 petitioners who have jointly filed W.P.(C) No.1853/2017, are admittedly posted in different parts of the country and are not entitled to relief from this Court.

11. The said contention is to be recorded to be rejected. It is not stated that this Court does not have jurisdiction. On enquiry, it is also stated that no such plea has been taken in the counter affidavits.

12. Since the respondents are admittedly situated at Delhi, certainly the petitioners, wheresoever they may be posted, were/are entitled to invoke the jurisdiction of this Court and the respondents/Government of India cannot so compel, particularly the servicemen/ex-servicemen to file petitions in different High Courts, wheresoever they may be posted, for recovery of their dues and to their expense and inconvenience. Also, the respondents/Government of India itself keeps on posting the said officials/personnel from place to place and it will be ridiculous to say that the petitions filed in one High Court would become infructuous on the petitioner/s being posted out from the jurisdiction of that High Court.

13. Else it is not disputed that the petitioners herein are similarly placed as the petitioners before the High Court of Madras and who, as aforesaid, by the Supreme Court, have been ordered to be paid deputation allowance from 11th September, 2009 till the date of discharge. In fact the Supreme Court also, upon being approached by some of the petitioners in these petitions, has in para 19 of the judgment clarified that this Court can now proceed to dispose of these writ petitions in view of the law which has been laid down by the Supreme Court in the said judgment.

14. Accordingly, the petitions are allowed in terms of **R. Thiagarajan** *supra*. The respondents are directed to, within eight weeks, pay to each of the petitioners the deputation allowance if any due to each of the petitioners, w.e.f. 11th September, 2009 and till the date of discharge of each of the petitioners. If the payments are not made within eight weeks, the amount due to each of the petitioners shall also incur interest at 9% per annum from the expiry of eight weeks till the date of payment.

15. The petitions are disposed of.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

SEPTEMBER 4, 2020

‘pp’

