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To
All the Zonal /Divisional /State /Regional Units

Dear Comrade,

Re: The Supreme Court Judgement in the case of CGIT

The Judgment delivered by a Three Judge Bench of the Supreme Court headed by Justice D.Y.Chandrachud in the case relating to absorption of workmen as per the decision of the CGIT has come as a big disappointment. The issue that was raised before the Court was regarding the proper implementation of the earlier Order of the two Judge Bench headed by Justice V.Gopala Gowda delivered on 18th March 2015.

The 2015 Judgement had set aside the orders of the Division Bench of Delhi High Court in LPA 690/2004 decided on 21/03/2007 and held that the order passed by the CGIT in ID 27/1991 is legal and valid, it shall be restored and implemented by the corporation by absorbing the workmen concerned in the permanent posts and if they have attained the age of superannuation the Corporation will be liable to pay all consequential benefits including the monetary benefits taking into consideration the pay scale and revised pay scale from time to time by the Corporation.

Since LIC had taken up a position that this order is applicable only to those whose name appears in the list submitted by the Unions in the original dispute in CGIT, the Supreme Court was approached for a direction to LIC to properly implement the judgement. Taking note of this fact, the Court referred the issue to CGIT, Delhi to verify and determine the eligibility of the candidates and report to the Supreme Court. The parties to the dispute in the original CGIT were asked to submit the applications from the aggrieved workmen. AIIEA appeared before the CGIT through its counsel Dr.P.Ravishankar and submitted a list of 3337 application with complete details. The Tribunal directed that 3332 applicants out of 3337 submitted by AIIEA are eligible for absorption as they meet the eligibility norms as decided by the original CGIT Award.

AIIEA got itself impleaded before the Apex Court by filing IA NO 104991/2019 to protect the interest of 3337 applicants and was represented by Dr.P. Ravishankar throughout and by VC on the date of argument on 3/3/2022. The submissions made by our advocate were well taken and in fact, responding to these submissions, the court had made oral remarks that the Judgment in CA 6950/2009 is ***judgment in rem and not Judgement in personam***. This meant that all workmen whether they were before the court or not should get the benefit of the CGIT Order if they meet the eligibility norm.

Unfortunately instead of passing the order on the issue under dispute, the Bench headed by Justice Y.V.Chandrachud invoked the extraordinary powers vested in the Supreme Court under Article 142 of

the Constitution on the ground that the long dispute pending for nearly 4 decades has to be brought to finality. The Court held that:

1. LIC as a statutory corporation is bound by the mandate of Articles 14 and 16 of the Constitution. As a public employer, the recruitment process of the corporation must meet the constitutional standard of a fair and open process. Allowing for back-door entries into service is an anathema to public service.
2. The position as it now stands, results in a palpable conflict between the two judge Bench decision in TN Terminated Employees Association (supra) dated 18 March 2015 on the one hand and the earlier binding decision of a larger Bench in E Prabavathy (supra) on 23 October 1992 and of subsequent Benches. This conflict must be harmonised by taking recourse to the jurisdiction of this Court under Article 142 of the Constitution. In arriving at a conclusion, this Court finds that:
3. (i) The remit of the CGIT which resulted in the Dogra Report was confined to the process of verification, as distinct from an adjudication of rights and liabilities;
4. A public employer such as LIC cannot be directed to carry out a mass absorption of over 11,000 workers on such flawed premises without following a recruitment process which is consistent with the principles of equality of opportunity governed by Articles 14 and 16 of the Constitution. Such an absorption would provide the very back-door entry, which negates the principle of equal opportunity and fairness in public employment, which has been specifically decried by this Court in *Secretary, State of Karnataka v. Umadevi*
5. The dispute is now of an antiquity tracing back to nearly four decades. Finality has to be wrung down on the dispute to avoid uncertainty and more litigation. Nearly thirty-one years have elapsed since 1991. We have come to the conclusion that the claims of those workers who are duly found upon verification to meet the threshold conditions of eligibility should be resolved by the award of monetary compensation in lieu of absorption, and in full and final settlement of all claims and demands. Thus, this Court directs the following:
6. A fresh verification of the claims of workers who claim to have been employed for at least 70 days in Class IV posts over a period of three years or 85 days in Class III posts over a period of two years shall be carried out;
The verification shall be confined to persons who were working between 20 May 1985 and 4 March 1991;
7. All persons who are found to be eligible on the above norm shall be entitled to compensation computed at the rate of Rs 50,000 for every year of service or part thereof. The payment of compensation at the above rate shall be in lieu of reinstatement, and in full and final settlement of all claims and demands of the workers in lieu of regularisation or absorption and notwithstanding the directions issued by this Court in *TN Terminated Employees Association (supra)*;
8. In carrying out the process of verification, the Committee appointed by this Court shall not be confined to the certified list before the CGIT and shall consider the claims of all workers who were engaged between 20 May 1985 and 4 March 1991;

9. For the purpose of verification, LIC shall make available all the records at the Divisional level to the Committee appointed by this Court;
10. It will be open to the workers concerned or, as the case may be, the Unions and Associations representing them, to make available such documentary material in their possession for the purpose of verification;
11. The process of verification shall be carried out independently without regard to the Dogra Report, which is held to be flawed;
12. The payment of compensation in lieu of reinstatement shall be effected by LIC within a period of three months from the date of receipt of the report of verification by the Committee; and
13. The task of verification shall be carried out by a Committee consisting of:
14. (a) Mr Justice P K S Baghel, former Judge of the Allahabad High Court; and (b) Shri Rajiv Sharma, former District Judge and member of the UPHJS. LIC shall provide all logistical assistance to the Committee and bear all expenses, including secretarial expenses, travel and incidental expenses, as well as the fees payable to the members of the Committee. Justice P K S Baghel shall fix the terms of remuneration payable to the members of the Committee.

With this Order, the Court has disposed off all the petitions. This is really disappointing. The AIIEA is making a detailed study of the Order and will thereafter take a decision on the steps it must take on this issue.

With Greetings,

Comradely Yours



General Secretary