

IN THE HIGH COURT OF DELHI AT NEW DELHI

21.11.2006

**Present: Mr. Dutta for the petitioner.
Mr. Sanjay Katyal for the respondent.**

WP(C) No. 4940/2002

By this writ petition, petitioner has challenged the notification No. S.O. 1086 (E) dated 5.12.2000 issued by respondent No.1/ UOI modifying the

recommendations of the Wage Board constituted vide notification Nos. S.O. 641 (E) and S.O. 642 (E) dated 2.9.1994. UOI accepted the recommendations of the Pay Board with modifications affecting revision of the rates of wages in respect of working journalists. The petitioner also challenged the notification SO 1125 (E) dated 15.12.2000 modifying the rates of wages as fixed in consequence of notification dated 5.12.2000. The notifications are challenged on the ground that the notifications were issued in contravention of Section 12(2) of the Working Journalist and Other Newspaper Employees (Conditions of Service) and Miscellaneous Act 1955, (for short the 'Act') journalists and other employees newspaper employees conditions of service Act.

These notifications were also challenged by Manipal Network Limited before Karnataka High Court by writ petition No. 28588/2001. Karnataka High Court vide its order dated 1.2.2006 has struck down the notification on the ground of contravention of Section 12 (2) of the Act as no notice was given by the Government to the effected party before modifying the Award. Counsel for the respondent submits that under Section 12 (1) of the Act, Government has power to issue minor modifications without any notice to the affecting parties while under Section 12 (2), the notice to the affecting party is necessary only when major modifications are made. He states that modification made by the Government were of minor nature requiring no notice as provided under Section 12 (1).

:2:

WP(C) No. 4940/2002

He submits that the issue whether the modifications were of minor nature or not was not considered by the Karnataka High Court.

A perusal of the order Karnataka High Court shows this issue was not raised and Government admitted no notice was served as required under Section 12 (2) to the affecting party. Modifications made by the Government had put additional burden on the petitioners. It is a settled position of law that whatever an additional burden is put by way of modification on a party, the party must be heard. I consider that the Government should have served a notice on the petitioners and heard the petitioners before issuing modification. Since notification has already been struck down by Karnataka High Court and I have been informed on instructions from Sh. Sher Shah, Under Secretary, that the order of the Karnataka High Court has not been challenged so far, for all practical purposes, this notification does not survive.

The writ petition stands allowed since the impugned notification has

already been struck of in view of the judgment of the Karnataka High Court. However, the Government shall be free to bring in case it still intends to, the modifications after following the procedure as laid down under the Act. Petitioner, however, shall be bound by the order passed by any superior Court in a challenge to the judgment of Karnataka High Court. The writ petition is disposed of.

**November 21, 2006 SHIV NARAYAN
DHINGRA,J
kb**

R-14