



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/620/2017 Date of order : 5.5.2017
MA 350/356/2017

Present: Hon'ble Mr.A.K.Patnaik, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative member

PANKAJ PAL
ASHIS CHAKRABORTY
SANJIB KUMAR MANDAL
SISIR KUMAR BISWAS
SUDIP DAS
NABIN BHOWMICK
SUJIT CHAKRABORTY
SANAT KARMAKAR
BARUN BHATTACHARJEE
SUSANTA KUMAR SETHI
UJJAL KUMAR MONDAL
PRAMOD KUMAR SINGH

All working under
Metal & Steel Factory,
Ishapore,
P.O.- Nawabganj,
Dist.- 24-Pgs.(N),
Pin - 743144.

...APPLICANTS

VERSUS

1. Union of India, through Secretary, Ministry of Defence (Defence & Production), Govt. of India, South Block, New Delhi - 110001.
2. The Director General-cum-Chairman, Ordnance Factory Board, Having office at 10A Shaheed Khudiram Bose Road, Kolkata - 700001.
3. The General Manager Metal & Steel Factory, Ishapore, P.O.- Nawabganj, Dist.- 24-Pgs.(N), Pin - 743144.
4. The Dy. General Manager/HR Establishment Section, Metal & Steel Factory, Ishapore, P.O.- Nawabganj, Dist.- 24-Pgs.(N), Pin - 743144.

....RESPONDENTS.

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For the applicants: Mr.P.C.Das, counsel
Ms.T.Maity, counsel

For the respondents: Mr.S.Paul, counsel

O R D E R (ORAL)

A.K.Patnaik, J.M.

Heard Mr.P.C.Das, ld. Counsel along with Ms.T.Maity, ld. counsel appearing for the applicants and Mr.S.Paul, ld. counsel appearing for the departmental respondents.

2. MA application for joint representation is allowed.
3. This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of CAT (Procedure) Rules, 1987 as the grievances of the applicants are same and they are claiming the same benefit by governing them under Old Pension Scheme under CCS (Pension) Rules, 1972 and they are aggrieved against the common order which the respondent authority has passed by rejecting their claim;
- b) To quash and/or set aside the impugned speaking orders dated 10.2.2017 and 10.3.2017 issued by the General Manager, Metal & Steel Factory, Ishapore by which the claim of the applicants to govern them under Old Pension Scheme under CCS (Pension) Rules, 1972 has been rejected although they are appointed in the vacancy year of 2000 whereas the similarly circumstanced persons are getting the benefit of CCS (Pension) Rules, 1972 which they have indicated in their representations;
- c) To declare that all the applicants are governed under CCS (Pension) Rules 1972 and they are governing under Old Pension Scheme in the light of the decision of the Learned Central Administrative Tribunal, Ernakulum Bench in OA No. 180/00020/2015 dated 15.2.2016 and in terms of the decision passed by the Hon'ble Supreme Court in the case of Union of India & Ors. -vs- N.R.Parmar & Ors. in Civil Appeal No. 7514/7515 of 2005 where Hon'ble Supreme Court held that from the date of occurrence of the vacancy, the appointment should be given effect and since all the applicants appointed in the vacancy year of 2000 automatically they are governed under Old Pension Scheme i.e. CCS (Pension) Rules, 1972 and the respondents be directed to give old pension benefit in favour of the applicants by treating them under Old Pension Scheme i.e. CCS (Pension) Rules, 1972 along with all consequential benefits.
- d) To pass an appropriate order directing upon the respondent authority to produce all the connected departmental documents in respect of the vacancy year as well as date of occurrence of the vacancy against which the present applicants were appointed before this Hon'ble Tribunal so that consonable justice may be administered.

(Signature)

- e) Costs;
- f) Any other appropriate relief or reliefs as Your Lordship ay deem fit and proper.

4. As per the ld. Counsel for the applicants the sum and substance of the OA is that all the applicants after facing the selection process through interview and Trade Test dated 9.9.03 got appointment to the post of Semi-Skilled in the Metal & Steel Factory, Ishapore after 1.1.2004. The applicant No.1 submitted a representation bfoere the General Manager, Metal & Steel Factory, Ishapore for conversion of Old Pension Scheme to New Pension Scheme. The respondent authority issued the impugned office order dated 10.2.2017 by which the prayer of the applicant was rejected. The applicants then made a joint representation dated 17.3.2017 before the General Manager, Metal & Steel Factory, Ishapore for conversion of Old Pension Scheme to New Pension Scheme as they are eligible for getting benefit under CCS (Pension) Rules, 1972 but till date he has received no reply from the respondent authorities. Hence the applicant has approached this Tribunal in the instant OA.

The ld. Counsel for the applicant has also submitted that an identical order was passed by the CAT, Ernakulum Bench in OA No. 180/20/2015 whereby the co-ordinate Bench of this Tribunal has allowed the prayer of the similarly circumstanced persons.

5. Mr.Das submitted that the grievance of the applicants will be more or less redressed if the respondents are directed to consider and dispose of the representation dated 17.3.2017 preferred by the applicant addressed to respondent No.3 within a specific time frame.

6. We do not think it will be prejudicial to either sides if this OA is disposed of at the admission stage itself by directing the respondent No.3 to consider the representation dated 17.3.2017 stated to have been preferred by the applicants as per rules and regulations in force and communicate the result thereof to the applicants by way of a well reasoned order, within one month from the date of such consideration.



7. Therefore without entering into the merit of the case we dispose of the instant OA at the admission stage itself with a direction to the respondent No.3 to consider the appeal dated 17.3.2017 stated to have been preferred by the applicant as per rules and regulations and dispose it of by passing a well reasoned and speaking order and communicate the same to the applicant within one month from the date of receipt of this order.

8. Though we have not expressed any opinion on the merit of the matter and all the points to be raised in the representation stated to have been preferred by the applicant, are kept open for the said respondent No.3 to consider the same as per the rules and regulations in force, still then we hope and trust that after such consideration if the applicant's grievance is found to be genuine then expeditious steps may be taken within a further period of three months from the date of such consideration to redress his grievance.

9. With the above observation and direction the OA is disposed of. No costs.

10. As prayed for by Mr.Das, a copy of this order along with the paper book of this OA be transmitted to respondent No.3 by Speed Post for which he will deposit the cost with the Registry within a period of one week.

(JAYA DAS GUPTA)
MEMBER (A)

(A.K.PATNAIK)
MEMBER (J)

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