

Central Administrative Tribunal
Patna Bench, Patna.
 [Circuit Court at Ranchi]

OA 51/000813/2018

Date of Order:- 25.10.2018

C O R A M

Hon'le Shri K.N. Shrivastava, Member A)
 Hon'ble J. V. Bhairavia, Member [J]

Yashpal Singh, aged bou 36+ yrs s/o Sri Ashok Kumar Singh, resident of Village-Dharhara Tomar Tola, P.O.- Dharhara, P.S. Dharhara, District-Munhe-811212 (Bihar) and 39 others.

....Applicants

By Advocate : Shri M.A. Khan

Vs.

1. Union of India through the General Manager, East Central Railway, P.O.- & P.S.- Hajipur, Vaishali (Bihar) and three others.

..... Respondents.

By Advocate : Shri Prabhat Kumar

O R D E R
(oral)

Per K.N. Shrivastava, M [A] :- ____M.A.431/2018 filed for joining 39 applicants in this O.A is allowed.

2. Pursuant to an advertisement of Railway Recruitment Board(RRB) Bhuneshwar issued in the year 2003, the applicants had participated in the selection process and were selected against the various posts as per the details given at Annexure A/1. Their grievance is that they are unfairly being covered under the New Pension Scheme (Contributory Pension Scheme) effective from 01.01.2004. Their contention is that their recruitment process had started in the

year 2003 itself, therefore, they have to be covered under the GPF cum Pension Scheme which was applicable in the year 2003. The applicants have placed reliance on the following judgement :-

- (a) **Judgement of Ernakulam bench of the Tribunal dated 15.02.2006 in O.A No. 180/00020/2015 (Sheeba B & Anr V. U.O.I & Ors)**

Held :-

"As no other third party interest s put in jeopardy and as the applicants will not be eligible for other benefits like pay for the aforesaid period. Hence, it is declared that the applicants are deemed to have been appointed from the date of the vacancy arose and that they shall be included in the CCS (Pension) Rules 1972. Respondents are directed to collect necessary subscription under the Provident Fund Rules and the contributions collected from the applicants under the new pension scheme shall be credited to their general provident fund account. It is made clear that no other financial benefits including increments and back wages have been granted to the applicants for aforesaid period"

- (b) **Judgement of Bilaspur Circuit Bench of Jabalpur Bench of the Tribunal in O.A. No. 203/00290/2017.**

Held :-

"In view of the limited prayer made by the applicants and without going into the merit of the case, we dispose of the original Application with a direction to the respondents to consider and decide the representation of the applicants in the light of ratio laid down by the Ernakulam bench in O.A No.s 724/2012 &

180/00020/2015 and in Special Appeal No. 330 of 2013 by the Hon'ble High Court of Uttarakhand, within a period of two months from the date of receipt of a copy of this order by passing a reasoned and speaking order."

3. Heard Shri M.A. Khan, I/c for applicant. Issue notice. Shri Prabhat Kumar accepts notices on behalf of the respondents and entered his appearance.

4. Shri Prabhat Kumar placed on record a judgement of Hon'ble Delhi High Court passed in Sanjay Kumar Thakur and others vs North Delhi Municipal Corporation and others (W.P. (C0 5828/2016) decided on 01.12.2016 and submitted that the judgment relied upon by the applicants have been duly analyzed in the judgement of Hon'ble Delhi High Court and that the Hon'ble Delhi High Court has come to a clear finding that all government servants appointed on or after 01.01.2004 have been covered under the new pension scheme .

5. Shri M.A. Khan, I/c for applicant submitted that the applicants had submitted Annexure A/2 representation dated 11.07.2018 to the Sr. D.P.O, E.C. Railway, Dhanbad (respondent no.4) which has not been decided. He further submitted that the applicants would be satisfied at this stage, if a time bound direction is given to the respondent to decide their pending representation.

6. Shri Prabhat Kumar, I/c for respondents has no objection to it.

7. Having regard to the submissions made by the parties, we dispose of this O.A at the admission state itself with the following directions :-

"(a) Applicants are given liberty to submit a comprehensive representation to respondent no.4, in addition to their

Annexure A/2 representation, within a period of two weeks from the date of this order.

- (b) Respondent no. 4 i.e Sr. Divisional Personnel Officer, East Central Railway, P.O. & P.S. & District- Dhanbad-826001 is directed to consider the Annexure A/2 representation as well as the new representation and dispose them of the same by passing a reasoned and speaking order within eight weeks from the date of receipt of the new representation under intimation to the applicants. While disposing of the representations, respondent no.4 shall keep in view the judgements relied upon by the parties and referred hereinabove.***
- (c) Applicants shall be at liberty to take recourse to appropriate remedy, as available to them under the law, if they are not satisfied by the order of the respondent no.4.***

(J. V. Bhairava)
Member [J]

(K.N. Shrivastava)
Member A

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