

GAHC010229252016



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4110/2016

KAILASH BALMIKI and 8 ORS.
S/O. LT. BHAGWAT DAYAL BALMIKI

2: SRI DURBIJOY BALMIKI
S/O. SRI KADDI LAL BALMIKI

3: SRI RISHI PAL BALMIKI
S/O. LT. MATRU LAL BALMIKI

4: SRI BRAHMANAND BALMIKI
S/O. LT. JANKI PRASAD BALMIKI

5: SRI SHUYALAL BALMIKI
S/O. LT. HIRALAL BALMIKI

6: SRI VIDYA RAM BALMIKI
S/O. LT. RAMESH CH. BALMIKI

7: SRI SUKPAL BALMIKI
S/O. LT. TIKARAM BALMIKI

8: SRI MADAN HANS
S/O. LT. BANTA HANS

9: SRI RAM PRAKASH BALMIKI
S/O. LT. BANWARI LAL BALMIKI
ALL ARE R/O. DULIAJAN
P.O. and P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM

VERSUS

OIL INDIA LTD. and 4 ORS.

A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956 WITH ITS CORPORATE OFFICE AT PLOT NO. 19, NEAR FILM CITY, SECTOR-16A, NOIDA-201301 AND REGD. OFFICE AT DULIAJAN, P.O. and P.S. DULIAJAN, DIST. DIBRUGARH, ASSAM.

2:THE CHAIRMAN CUM MANAGING DIRECTOR

OIL INDIA LTD.
PLOT NO.19
NEAR FILM CITY
SECTOR-16A
NOIDA-201301 AND REGD. OFFICE AT DULIAJAN
P.O. and P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM
PIN-786602.

3:THE RESIDENT CHIEF EXECUTIVE

OIL INDIA LTD.
DULIAJAN
P.O. and P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM
PIN-786602.

4:THE HEAD EMPLOYEEES RELATIONS

OIL INDIA LTD. DULIAJAN
P.O. and P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM
PIN-786602.

5:THE SECRETARY

OIL INDIA PENSION FUND
OIL INDIA LTD.
DULIAJAN
P.O. and P.S. DULIAJAN
DIST. DIBRUGARH
ASSAM. PIN-786602

Advocate for the Petitioner : MR.P BORDOLOI

Advocate for the Respondent : MR.A SARMAR- 1-5

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

24.03.2023

Heard Mr. P. J. Saikia, the learned senior counsel assisted by Mr. R. S. Mishra, the learned counsel for the petitioners and Mr. U. K. Nair, the learned senior counsel assisted by Mr. K. Kalita, the learned counsel appearing on behalf of all the respondents.

The issue involved in the instant writ petition is as to whether the petitioners herein are entitled to benefit under the Oil India Pension Fund (OIPF) or Oil India Superannuation Benefits Scheme Fund (OISBSF).

Being aggrieved by an order dated 03.05.2016, by which the Resident Chief Executive of Oil India Ltd., had held that the petitioners are not entitled to the benefit under OIPF but rather come within the ambit of OISBSF, the petitioner have approached this Court under Article 226 of the Constitution.

The issue involved herein relates to the interpretation of the Rules of OLPF, and more particularly, Rule 8(b) which is reproduced herein under:-

“8 (b) An employee of the Company as at 14th October, 1983 who was not a member of the Existing fund but was otherwise eligible upon confirmation for membership under the Rules of the Existing Fund, may make an application to the Trustees in such form as may from time to time be prescribed by the Trustees and such application shall be submitted at the Registered Office of the Company accompanied by such evidence of age as the Trustees may require

and, on such application being approved by the Trustees, the employee shall be admitted as a member.”

It is the contention of the learned counsel for the petitioners that Rule 8 (b) does not distinguish between a temporary or a permanent employee. It is the further submission of the learned counsel for the petitioners that when an employee of a Company is eligible upon confirmation for membership under the Rules of the existing fund, he has to be given the benefit under OIPF.

On the other hand, Mr. U. K. Nair, the learned senior counsel appearing on behalf of the respondents submits that an employee in terms with Rule 8 (b) of the OLPF would mean either an existing employee of the Company on 14th October, 1981 who was not a member of the existing fund or a probationer who upon being confirmed as per the standing order of the Oil India Ltd. would be entitled to membership of the OIPF.

At this stage, this Court finds it relevant to take note of Rule 4 of the OIPF which categorically stipulates that the Trustees shall decide all differences or disputes which may arise under the Rules either as to the interpretation thereof or as to the rights and obligations of the beneficiaries and the decision of the Trustees shall in all cases be final and binding on all parties concerned. Rule 4 of the OIPF, being pertinent is quoted herein below:-

“4. The Trustees shall decide all differences or disputes which may arise under the Rules either as to the interpretation thereof or as to the rights and obligations of the beneficiaries and the decision of the Trustees shall in all cases be final and binding on all parties concerned PROVIDED ALWAYS that where

such difference or dispute shall relate to Income-tax matters it shall be referred to the Commissioner and his decision shall be final.”

Taking into account the scope and ambit of Rule 4 of the OIPF, it shall not be proper on the part of this Court to give an interpretation to Rule 8 (b) of the Rules without the trustees taking a call as regards the interpretation of the said Rule 8 (b).

Under such circumstances, the instant writ petition, therefore, stands disposed of thereby granting liberty to the petitioner to make a request to the Trustees of the OIPF thereby seeking an interpretation to Rule 8 (b).

Mr. P. J. Saikia, the learned senior counsel for the petitioners submits that within 30 (thirty) days, the petitioners shall do the needful.

This Court directs the Trustees of OIPF who are represented in the instant proceedings through the respondent No.5 to decide on the interpretation of Rule 8 (b) and as to whether a temporary employee would also come within the ambit of Rule 8 (b).

This Court further directs that in the event the said request is being made by the petitioners within the period as aforementioned, the Trustees of the OIPF shall decide the same and give an interpretation within a period of 3 (three) months thereafter.

It is further observed that in the circumstance interpretation is given in favour of the petitioners, the respondent authorities shall grant such consequential relief(s) to the petitioners as required.

It is further observed that in the circumstance the petitioners are aggrieved with the interpretation so given, the petitioners will be at liberty

to challenge the same in an appropriate proceedings.

With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant