

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CWP No.3223 of 2008**

DATE OF DECISION: SEPTEMBER 7, 2015

UNION OF INDIA & OTHERS ...PETITIONERS

VERSUS

CENTRAL ADMINISTRATIVE TRIBUNAL & ORS. ...RESPONDENTS

2. **CWP No.5160 of 2008**

UNION OF INDIA & OTHERS ...PETITIONERS

VERSUS

CENTRAL ADMINISTRATIVE TRIBUNAL & ORS. ...RESPONDENTS

3. **CWP No.3345 of 2008**

UNION OF INDIA & OTHERS ...PETITIONERS

VERSUS

CENTRAL ADMINISTRATIVE TRIBUNAL & ORS. ...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR.PANKAJ JAIN, ADVOCATE
FOR THE PETITIONERS.

MR.R.K.SHARMA, ADVOCATE
FOR THE PRIVATES RESPONDENTS.

M. JEYAPPAUL, J.

1. The writ petitioners in all the aforementioned three writ petitions have sought to review the directions issued by the learned Tribunal

in the respective Original Applications to grant all benefits as prayed for by the private respondents in terms of the judgement in *Bharat Bhushan and others vs. Union of India and others*, O.A. No.253-CH-1991 decided on 9.2.2000.

2. The private respondents initially joined the Beas Construction Board (for short 'BCB') as Section Officers (Mechanical) in the year 1971-1973 in the pay scale of ₹700-1200/-. They were declared surplus in terms of the provisions of the Punjab Reorganization Act and as a result of which their names were referred to the Central Surplus Staff Cell in December, 1984. They were redeployed in the Department of the writ petitioners in the month of May, 1985. The private respondents opted for central pay scales pursuant to the Government of India Circular Annexure A-2 dated 27.2.1985. Their pay scale of ₹425-700/- was revised to ₹1400-2300/- w.e.f. 1.1.1986. No fresh option was given to the private respondents and they continued in central pay scale as revised on 1.1.1986 and 1.1.1996. The persons similarly situated filed O.A. No.253-CH of 1991 titled as *Bharat Bhushan and others vs. Union of India and others* before the Chandigarh Bench of the Central Administrative Tribunal claiming revised central pay scales of ₹1640-2900 w.e.f. 1.1.1986 with all consequential benefits. The said application was allowed vide order Annexure A-4 dated 9.2.2000. CWP No.9969 of 2000 filed by the writ petitioners herein as against the said order was ultimately dismissed on 31.8.2005. An SLP preferred there against was converted as Civil Appeal and thereafter, it was also dismissed by the Hon'ble Supreme Court on 10.12.2009. As the

controversy was set at rest by the Hon'ble Supreme Court, the Government of India, Department of Personnel and Training issued general Circular dated 11.4.2005 (Annexure A-14) directing to extend the benefit of the judgement in Bharat Bhushan's case (supra) even to non-applicants.

4. Heard the submissions made by learned counsel appearing for the writ petitioners and learned counsel appearing for the private respondents in all these three writ petitions.

5. The private respondents had been originally serving as Section Officers (Mechanical) under the BCB. After they had been declared surplus, they were redeployed with the writ petitioners in the month of May, 1985. It is also not in dispute that they have opted for central pay scales. No fresh option was sought from the private respondents thereafter. In other words, they continued to receive the central pay scale as revised on 1.1.1986 and 1.1.1996.

6. It is an admitted position that similarly situated employees filed O.A. titled as Bharat Bhushan and others vs. Union of India and the revised pay scale of ₹1640-2900 w.e.f. 11.1986 with all consequential benefits was given. The matter went upto the Hon'ble Supreme Court, but ultimately the decision taken by the Tribunal was maintained, as a result of which the Department of Personnel and Training, Government of India issued circular dated 11.4.2005 extending the benefit of the above judgement even to non-applicants.

7. Pursuant to the legal position settled in Bharat Bhushan's case (supra), the writ petitioners cannot have any reason to deny the benefits

sought for by the private respondents in terms of the aforesaid judgement.

8. Ex-BCB employees had been deployed in various Departments including the Department of the writ petitioners drawing them from the list maintained by the Central Surplus Staff Cell. Discrimination *inter se* ex-BCB employees deployed in various Departments for no fault of theirs is not at all permissible. All other Departments where ex-BCB employees had been redeployed had implemented the verdict in Bharat Bhushan's case. It is really surprising that even after the Nodal Ministry of Government of India, i.e. Ministry of Personnel, Public Grievances & Pensions, DOPT had accepted the legal position and advised the Departments concerned to implement the decision in Bharat Bhushan's case in letter and spirit, the writ petitioners are reluctant to implement the above directions in the case of private respondents.

9. It was submitted by learned counsel appearing for the writ petitioners that the implementation of the prayer sought for by the private respondents would pave way for discrimination amongst the Junior Engineers employed in the Department of the writ petitioners. Learned counsel appearing for the private respondents would resist the above submission on the ground that the private respondents were a class by themselves as they had been redeployed after they had been declared as surplus in BCB.

10. We find that there is no force in the submission made by learned counsel appearing for the writ petitioners. As rightly pointed out by the learned counsel appearing for private respondents, the private

respondents had not been appointed through normal mode of recruitment to occupy the position of Junior Engineers like other Junior Engineers in the Department of writ petitioners. In fact they were deployed to the Department of the writ petitioners after they had put in 10 years of service in BCB and declared surplus in terms of the provisions of Punjab Reorganization Act. Under such circumstances, the private respondents constituted a class by themselves. Therefore, implementation of the above decision in Bharat Bhushan's case would not discriminate any similarly situated Junior Engineer in the Department of the writ petitioners.

11. In view of the above, we find that there is no merit in these writ petitions and therefore, the same stand dismissed.

(M. JEYAPPAUL)
JUDGE

September 7, 2015
Gulati

(DARSHAN SINGH)
JUDGE

