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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Delivered on: July 13, 2016

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W.P.(C) 10756/2015

BHUWAN CHANDRA

..... Petitioner

Represented by: Mr.Satyam Pandey, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Represented by: Mr.Prasanta Varma, Advocate
with Mr.G.L.Bhatia, Advocate

CORAM:

HON'BLE MR.JUSTICE PRADEEP NANDRAJOG

HON'BLE MS.JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. Heard learned counsel for the parties.
2. Except for the date when the petitioner was promoted to the post of Overseer, which petitioner claims to be February 12, 1990 and the respondents claim it to be June 12, 1990, parties are not at variance on any other fact.
3. Annexure R-2 filed with the writ petition supports the stand of the respondent that petitioner's promotion was on June 12, 1990 and thus the decision is premised on the fact that the petitioner was promoted as a Overseer on June 12, 1990.
4. But as we note hereinafter, this controversy is irrelevant.
5. Undisputed position is that in a writ petition filed by one Ghanshyam

Vishwakarma (Overseer) being WP(C) 51/2009, the Gauhati High Court directed, that irrespective of the mode of recruitment i.e. by direct recruitment or promotion, Overseers working with BRO would be granted benefit of pay scale of ₹5000-8000 (pre-revised) as recommended by the Pay Commission with effect from January 01, 1996 with actual benefits being restricted from January 01, 2006.

6. This would mean that as regards the petitioner, being an Overseer as on January 01, 1996, appointed thereto by way of promotion with effect from June 12, 1990, he would be entitled to the same benefit as was accorded to Ghanshyam Vishwakarma by the Gauhati High Court, which decision has been upheld by the Supreme Court and implemented qua Ghanshyam Vishwakarma.

7. If this be so we see, no reason why the petitioner be not entitled to a relief declaring that even petitioner would get the same benefit as Ghanshyam Vishwakarma got i.e. benefit of pre-revised pay scale ₹5000-8000 and thereafter the pay scale as per the recommendations of the Pay Commission introduced with effect from January 01, 1996 with actual benefits accruing with effect from January 01, 2006.

8. The petitioner thereafter was promoted as NT Supervisor, Grade-II.

9. With respect to pay in said, there is an issue of fact which arises. As per the respondents the post in question was in another stream and the petitioner opted for the same.

10. In the writ petition the petitioner is seeking the benefit of pre-revised pay scale ₹5000-8000 as Overseer and appropriate pay scale for the post of NT Supervisor.

11. We therefore clarify that we are not expressing any opinion as to

what pay scale should the petitioner be placed in with effect from October 09, 2012 when he earned promotion as NT Supervisor, Grade-II. But being placed in the applicable pay scale in the post of Overseer in terms of the decision in Ghanshyam Vishwakarma's case with actual benefits being restricted from January 01, 2006, petitioner's last pay drawn when he earned promotion to NT Supervisor, Grade-II would require to be protected and thus we so direct.

12. The petition is accordingly disposed of declaring that working as a Overseer with effect from January 01, 1996 petitioner be extended the same benefit which was granted to Ghanshyam Vishwakarma with effect from January 01, 1996 but difference in pay be paid with effect from January 01, 2006 as directed by Gauhati High Court. Further, as NT Supervisor, Grade-II, benefit of pay protection be accorded to the petitioner.

13. Arrears shall be calculated and paid within 12 weeks from today and if not paid within 12 weeks shall be payable with simple interest @ 8% per annum reckoned from 12 weeks from today.

14. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

JULY 13, 2016
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