IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2303 of 2015

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Ashok Kumar Son of Late Baldeo Singh Resident of Mohalla - Mahavir Asthan, Moldiar Tola, P.O. Mokama, District - Patna.

.... Petitioner/s

Versus

1. National Textile Corporation Limited Scope Complex, Core - IV, Lodhi Road, New Delhi 110003 through the Chairman-cum-Managing Director.
2. The Chairman-cum-Managing Director, National Textile Corporation Limited, Scope Complex, Core - IV, Lodhi Road, New Delhi 110003.
3. The Director (H & R), National Textile Corporation Limited, Scope Complex, Core - IV, Lodhi Road, New Delhi 110003.
4. The Managing Director-cum-Incharge, National Textile Corporation Limited, 7, Jawaharlal Nehru Road, Kolkata - 700013.
5. The Deputy General Manager, National Textile Corporation Limited, Sub Office, Kolkata, 7, Jawaharlal Nehru Road, Kolkata - 700013.
6. The Sr. Manager (F & A)/ Legal/IA, National Textile Corporation Limited, Sub Offfice, Kolkata, 7, Jawaharlal Nehru Road, Kolkata - 700013.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chitaranjan Sinha, Sr. Advocate
		Mr. Pankaj Kumar Singh, Advocate
		Ms. Surya Nilambari, Advocate
For the Respondent/s	:	Mr. Giridhar Gopal Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 30-07-2018

Heard learned counsel for the petitioner as well as counsel appearing for the respondents.

2. The petitioner has sought quashing of the order dated 24.10.2014 passed by the Deputy General Manager of National Textile Corporation Limited rejecting the petitioner's representation for grant of benefits of pay revision with effect from 01.01.2006 as per 6th Central Pay Revision Commission report.

3. Brief case of the petitioner is that though the benefit

has been granted to one Arun Kumar Jha who was serving with him in the Bihar Corporative Spinning Mills, Mokama, the same has not been granted to the petitioner. He has also raised a grievance that the benefits under the pay revision in accordance with 6^{th} Central Pay Revision Commission report was granted to the other 35 employees and the same has not been granted to the petitioner.

4. Learned Senior counsel has also emphatically submitted that the said Arun Kumar Jha with whom he claims parity was allowed to work till 2010 in the same unit which is supposed to be a closed unit. Benefits under the pay revision in accordance with 6^{th} Central Pay Revision Commission have been granted to said Arun Kumar Jha whereas the petitioner has been discriminated against, and the said benefit has not been granted to him.

5. Counsel for the respondents, on the other hand, with reference to the impugned order dated 25.10.2014 (annexure 1 of the writ petition) submits that entitlement to pay revision in accordance with 6^{th} Central Pay Revision Commission was based on the exercise of option for (Modified Voluntary Retirement Scheme for short 'MVRS') which was introduced by the respondent Corporation under the circular dated 30.04.2010. The relevant extract of the said circular is being reproduced herein.

"Pay revision of employees of NTC in the cases of those covered under the CDA pay pattern effective from 01-01-2006 and IDA pay pattern effective from 01-01-2007, is being implemented effective from 01-03-2010. This revision in the cases of Executives and Staff of CDA and IDA is not applicable per-se to employees of the closed Mills, JV Mills and erstwhile subsidiary offices which have no work, as it will cause extra financial burden to the Company which is on a turn around mode. Such employees have been paid wages/salaries without any work for the last many years by now. However, the Company will be extending them MVRS benefits by notionally fixing their pay in the revised pay scales from the effective date of 01-01-2006 and 01-01-2007 in the cases of CDA and IDA pay pattern employees respectively on their accepting MVRS. Though this will be an additional cost to the Company, this will be an added compensation for the employees who intend to avail MVRS. This will enable the Company to bring down the financial burden in payment of idle wages of the Company."

"All concerned employees are requested to note that this will be the last chance for them to avail MVRS. Some of the left over employees who do not opt for MVRS, may be considered by the Management for transfer to the working units/working offices anywhere in the country subject to availability of vacancy. Management will be left with no other option but to dispense with the services of the remaining employees of this category according to the terms of their employment."

6. Having drawn the attention of this Court towards this circular, it is submitted that the admitted position is that the petitioner has not made his application for availing of the benefits under the MVRS and as such he cannot make any claim for benefit of pay revision in accordance with 6th Central Pay Revision Commission.

7. By filing supplementary affidavit in the instant proceedings it is submitted by the counsel for the petitioner that Mr. Arun Kumar Jha has not submitted his application for MVRS, still benefit has been granted to him. The same is denied by the respondents.

8. The respondents have specifically given pleadings with respect to those who were given benefit under 6th Central Pay Revision Commission that they were allowed benefit keeping in view the job requirement and other facts and circumstance.

9. Their policy is clear and uniformly applied to all employees who opted for MVRS including Arun Kumar Jha. Admittedly the petitioner has not applied in response to the said scheme. Grant of benefits to others including Arun Kumar Jha had

not been challenged, nor has he been impleaded as a party. The petitioner is only claiming parity in respect of grant of benefits under the 6th Central Pay Commission by claiming that since they have allowed benefit, he should also be granted.

10. As noticed hereinabove, the scheme is very clear. The only requisite condition for grant of benefit under 6th Central Pay Revision Commission, was applying under the MVRS scheme which the petitioner has admittedly not done and having failed to do so and in absence of such application, the same has rightly not been considered. Even though the terms of the policy clearly stipulate that the benefits has been dependent upon application for MVRS scheme by the employees but after enforcement of MVRS scheme in 2010 the petitioner has chosen to continue in employment without opting MVRS till his retirement in the year 2014. The belated writ petition has been filed thereafter.

11. Thus, by not opting for MVRS he has taken the benefit of continuing in regular service of the respondent corporation for 4 more years and availed of the service benefits. Having elected to avail of benefits of service without applying for MVRS, he cannot be permitted now to claim that benefits under MVRS, which he chose not to avail, be also given to him. Such conduct of the petitioner is not sustainable.

12. For the reasons stated hereinabove, this Court finds no merit in the claim of the petitioner.

13. The writ petition is devoid of merits and the same is dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	