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WPCT 30 of 2020

**Anup Kumar Mitra & Ors.
Vs.
Union of India & Ors.**

Mr. Pappu Adhikari
...For the Petitioners

Mr. Alok Kumar Banerjee
Mr. Arijit Majumder
...For the Union of India

This writ petition is directed against an order passed by the Central Administrative Tribunal, Kolkata Bench on 11th July, 2019 in connection with an application filed by one Anup Kumar Mitra & Ors. under Section 19 of the Central Administrative Tribunal's Act praying, inter alia, for benefits that were extended to Ranjit Kusum Chowdhury and 19 others in O.A No. 1148 of 2003 and Rabindranath Modak & 15 Ors. in O.A No. 1108 of 2008.

The grievance of the petitioners before the Tribunal appears to be that the petitioners standing on the same footing as that of Ranjit Kusum Chowdhury and Rabindranath Modak are entitled to the same financial benefit under BCR scheme with effect from 01st January, 1997.

The Tribunal upon consideration of the order passed by its coordinate bench in relation to the said two matters and relying upon four decisions of the Hon'ble Supreme Court opined that the financial benefit extended to Nikhil Ranjan Biswas cannot be made applicable to the applicants before the Tribunal.

Learned counsel appearing on behalf of the writ petitioners has strenuously argued before us that the coordinate bench of the Tribunal cannot differ from their earlier views on the same set of

facts and moreover, the order of the Tribunal in Rabindranath Modak (supra) was not interfered with by a coordinate bench in WPCT 104 of 2014 decided on 8th July 2014 in the matter of (Union of India & Ors. Vs. Rabindranath Modak & Ors.).

Mr. Alok Kumar Banerjee, learned counsel appearing on behalf of the Union of India, however, has opposed this application and submits that the law laid down in the said decision cannot be treated as precedent in view of the order passed by the Supreme Court in Special Leave Petition (Civil No. 18019 of 2006) in Union of India & Ors. Vs. Ranjit Kusum Chowdhury & Ors. Our attention has been drawn to the last sentence of the Hon'ble Supreme Court's order dated 13th September, 2010 which is "the order shall not be treated as precedent for any other purposes".

The crucial issue before the Tribunal was whether the length of service rendered by Nikhil Ranjan Biswas before he made his request for transfer to the parent department could be a factor for extending financial benefit to the present applicants who, although, are senior in the gradation list but did not complete the requisite length of service. The length of service for the purpose of getting financial benefit is a relevant factor as it is not completely wiped out or irrelevant when financial benefit is claimed on the basis of his length of service as the transfer by itself will not wipe out his length of past service for getting financial benefit, although he may be at the bottom of the gradation list.

This was the factor which weighed with the Tribunal for not accepting the submission made by the present petitioners notwithstanding their deficiency in the length of service, they should be extended the financial benefit just because Nikhil

Ranjan Biwaswas, who had admittedly joined in 1970 and rightly got TBOP/BSR benefits after completion of 16/26 years of service. The date of entry into service can only be treated as a reference point for the purpose of getting financial benefit to employees whose length of service is 16/26 years.

Accordingly, we affirm the order of the Tribunal.

WPCT 30 of 2020 is thus dismissed.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of all undertakings.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)

