$~Suppl.-26

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P. (C) 1451/2021 & CM APPLs. 4168-69/2021

RAMNIWAS AND ORS. .....Petitioners

Through: Mr. Mananjay Mishra, Advocate

Versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Vishal Bakshi, Advocate

% Date of Decision: 04th February, 2021

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

1. The present writ petition has been filed seeking directions to the respondents to treat the petitioners as members of the Old Pension Scheme and extend the pensionary benefits as per the Central Civil Services (Pension) Rules, 1972.

2. Learned counsel for the petitioners states that the petitioners are Constable/Sub-Inspector with the BSF and due to a delay in conducting the medical test by the respondents, the petitioners were recruited on 07th January, 2004 instead of December, 2003 and in the meantime, the New Pension Scheme was implemented, and the petitioners were denied the benefits under the Old Pension Scheme.

3. Learned counsel for the petitioners submits that similarly situated persons of the same batch of 2003 had approached this Court by filing

two writ petitions i.e. W.P.(C) No. 6680/2017 titled as ***Tanaka Ram and Ors. Vs. Union of India and Ors.*** decided vide judgment dated 12th February, 2019 and WP(C) No. 8208/2020 titled as ***Sub Inspector/Min/ M.R.Gurjar and Others vs. Union of India and Ors.*** decided vide judgment dated 15th January, 2021 wherein this Court directed the respondents to extend the benefits of the Old Pension Scheme.

4. Issue notice. Mr. Vishal Bakshi, Advocate accepts notice for the respondents. He states that in the present case, the recruitment process was completed post December, 2003 and therefore the petitioners are to be governed by the New Pension Scheme.

5. Having heard learned counsel for the parties, this Court is of the view that issue involved in the present case is no longer *res integra*. This Court on 15th January, 2021 in the case of ***Sub Inspector/Min/ M.R.Gurjar and Others*** (supra) has held as under:-

> *"13. Having regard to the fact that in the present batch of cases also the advertisement/notification was issued in September, 2003 and June, 2003 i.e. prior to coming into force of the present contributory pension scheme on 22nd December, 2003, this Court is of the view that petitioners cannot be deprived of the benefit of the Old Pension Scheme.*
>
> *14. This is more so when the batchmates of the petitioners are getting this benefit under various judgements passed by this Court."*

6. Consequently, the petition is allowed and the respondents are directed to extend the benefits of Old Pension Scheme to each of the petitioners and pass consequential orders within a period of eight weeks from today.

7. Accordingly, the writ petition along with pending applications stand disposed of.

MANMOHAN, J

ASHA MENON, J

FEBRUARY 04, 2021
ak/mw