



W.P.No.5584 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.5584 of 2016

K. Lakshmikanthan

... Petitioner

Vs.

Bharat Heavy Electricals Ltd.,

Rep by Sr.Manager P & A Deepa Balaji

BHEL Piping Centre,

80, GN Road, T.Nagar,

Chennai 600 077.

... Respondent

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Declaration declaring the letter dated 14.01.2016 issued by the respondent Ref.No.PC:HR:RECHS:ENMS:2952017, as null and void and nonest in the eye of law consequently direct the respondent to pay Rs.20,000/- being the mitigation benefit for the year 2012-13 & 2013-2014 with 18% interest per annum.

For Petitioner : Mr.A.R.Nixon

For Respondent : M/s.M.Abinu Monisha



W.P.No.5584 of 2016

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ORDER

This writ petition is filed for issuance of a Writ of Declaration declaring the letter dated 14.01.2016 issued by the respondent Ref.No.PC:HR:RECHS:ENMS:2952017, as null and void and nonest in the eye of law consequently direct the respondent to pay Rs.20,000/- being the mitigation benefit for the year 2012-13 & 2013-2014 with 18% interest per annum.

2. The petitioner retired (VRS) on 24.08.2003 as Senior Engineer from the respondent's institution which is a public sector under taking of Central Government. The petitioner is not covered under the Pension Scheme since the petitioner retired prior to 01.01.2007. In order to safeguard the welfare of the employees retired prior to 01.01.2007, the respondent pays Rs.900/- p.m. from the Employees Provident Fund Scheme (EPF) as Pension. The petitioner and his wife were entitled for Rs.6,000/- each per annum towards medical expenses. The petitioner came to know from his friend during July 2015 that a new benefit scheme (ENM) was extended to the retired employees, where under Rs.10,000/- was paid under mitigation scheme every year from 2013 onwards. As the



W.P.No.5584 of 2016

WEB COPY

scheme was not properly published, the petitioner was not aware of it and he came to know only through his friend that such a scheme was floated. The petitioner on 17.07.2015 sent a letter for sanctioning the mitigation scheme benefit amount and the respondent sent the benefit to the petitioner's bank. As the petitioner was not paid the benefit for the year 2013 & 2014 he sent a representation to the respondent to pay the arrears for the year 2013 & 2014. The respondent vide communication dated 04.01.2016 rejected the petitioner's request. Hence, the petitioner has filed the above writ petition.

3. The respondent filed a detailed counter stating that the scheme for providing financial support was widely published by notifying the scheme in daily newspaper and the copy of circular of scheme was also sent to all the employees who retired before 01.01.2007 by ordinary posts. It is further stated that the scheme was introduced on 10.07.2013 and the petitioner submitted his application form only in the year 2015 for claiming benefit extended under the scheme for the year 2014-2015 and the same was processed by the respondent and payment of Rs.10,000/- towards financial support was made to the petitioner. After receiving the financial support for the year 2014-2015, the petitioner submitted his application form for the year 2012-2013 & 2013-2014



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belatedly in the year 2015. Since the application was submitted belatedly, the forms were returned to the petitioner. The respondent stated that under the scheme applications received beyond the end of the financial year or for claiming arrears in the next financial year were not entertainable. The claim of the petitioner to pay arrears for 2012-2013 & 2013 – 2014 was therefore rejected by the respondent. The respondent submitted that the writ petition was without merits and the same deserved to be dismissed.

4. The learned counsel for the petitioner submitted that the scheme was not widely published and therefore the petitioner was not able to submit the application for the years 2012-2013 and 2013-2014 in time. Since the scheme was a beneficial scheme, the respondent should be directed to pay the arrears for the year 2012-2013 and 2013-2014. More so when the scheme was not widely published.

5. The learned counsel for the respondent on the other hand submitted that the payment of mitigation benefit under the scheme was operative from year to year. Based on the applications the financial support of the Committee of Directors was extended. The scheme was widely published and therefore the



contention of the learned counsel for the petitioner that there was no publication of the scheme was untenable. The learned counsel further submitted that the scheme which was operative on year to year basis depended on the availability of funds and also subject to review every year by the Committee of Directors. The learned counsel therefore submitted that the petitioner is not entitled to any relief as claimed by him in the writ petition and the same deserved to be dismissed.

6. Heard both sides and perused the materials available on record.

7. The scheme in question reads as follows:-

“Salient Features of the Scheme are as under:-

- 1. Scheme aims to provide some financial support in case of listed emergency needs of retired employees of the Company, at Board level & below Board level who retired prior to 01.01.2007 and who are not covered by the BHEL Employees' Pension Scheme.***
- 2. A list of special as well as common emergency needs have been listed for providing financial support.***
- 3. Uniform ceiling of financial support to retired employees irrespective of the grade has been provided under the Scheme.***



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4. It is a “Self Managed” scheme at BHEL level.

5. This is NOT a pensionary benefit.

6. The financial support under the Scheme will be decided on year to year basis within DPE guidelines subject to affordability. As such this scheme needs to be revalidated on a year to year basis for continuance”.

8. From a reading of the above scheme, it is clear that the scheme is a year to year scheme and subject to financial support for the particular year. Admittedly, the petitioner did not make any applications for the year 2012 – 2013 & 2013- 2014. The petitioner submitted application for the year 2014-2015 and was paid Rs.10,000/- under the scheme. Further, it can be seen that the scheme was floated on 13.07.2013 and therefore the benefit did not arise for the year 2012-2013. The petitioner's chief grievance is that the scheme being a beneficial scheme adequate publicity ought to have been given. As there was no wide publicity, the petitioner was not aware of the same and therefore the petitioner cannot be denied arrears.

9. It is seen that the scheme for providing financial support was widely published by notifying the scheme in daily newspaper and the copy of circular



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of scheme was also sent to all the employees retired before 01.01.2007 by ordinary posts. Further the scheme was also displayed in the notice board of retired Employee's Contributory Health Scheme (RECHS) Cell and in the online portal for retired employees (BHEL Ecare website). Therefore, the contention of the petitioner that there was no wide publication of the scheme and the rejection order dated 14.01.2016 was invalid on that ground cannot be countenanced. In view of the specific clause in the scheme that it was operative on year to year basis and subject to affordability it is clear that the the petitioner is not eligible for arrears.

10. The learned counsel for the petitioner restricted his claim to Rs.10,000/- conceding that the scheme was not operative during the year 2012-2013. The petitioner is a retired employee and considering that he is in the twilight of life, a direction is issued to the respondent to consider the claim of the petitioner on sympathetic grounds. It is made clear that the direction to consider the petitioner's claim is issued on humanitarian grounds only and it shall not be used as a precedent for claiming arrears under the scheme as the scheme does not contemplate the same.



W.P.No.5584 of 2016

11. With the above observation and direction, the writ petition is disposed of. No costs.

06.09.2024

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Index : Yes /No

Speaking Order : Yes/No

N. MALA, J.

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WEB COPY



W.P.No.5584 of 2016

W.P.No.5584 of 2016

06.09.2024