$~100 to 106

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

100

\+ W.P.(C) 7352/2022

GAURAV KUMAR & ORS. .....Petitioners

Through: Mr. Tushar Ranjan Mohanty, Mr. Tarunveer Singh Taggar, Ms. Meenal Gandhi and Ms. Yogita Sharma, Advocates.

versus

THE STATE TRADING CORPORATION OF INDIA LIMITED .....Respondent

Through: Mr. Tarkeshwar Nath, Advocate.

101

\+ W.P.(C) 13456/2022

SUMIT KHANUJA .....Petitioner

Through: Mr. Tushar Ranjan Mohanty, Mr. Tarunveer Singh Taggar, Ms. Meenal Gandhi and Ms. Yogita Sharma, Advocates.

versus

THE STATE TRADING CORPORATION OF INDIA LIMITED .....Respondent

Through: Mr. Tarkeshwar Nath, Advocate.

102

\+ W.P.(C) 13558/2022

SUNIL KAJAL .....Petitioner

Through: Mr. Tushar Ranjan Mohanty, Mr. Tarunveer Singh Taggar, Ms. Meenal Gandhi and Ms. Yogita Sharma, Advocates.

versus

THE STATE TRADING CORPORATION OF INDIA LIMITED
.....Respondent
Through: Mr. Tarkeshwar Nath, Advocate

103
\+ W.P.(C) 13585/2022

KIRAN K .....Petitioner
Through: Mr. Tushar Ranjan Mohanty, Mr. Tarunveer Singh Taggar, Ms. Meenal Gandhi and Ms. Yogita Sharma, Advocates.

versus

THE STATE TRADING CORPORATION OF INDIA LIMITED
.....Respondent
Through: Mr. Tarkeshwar Nath, Advocate

104
\+ W.P.(C) 13586/2022

ANITHA G .....Petitioner
Through: Mr. Tushar Ranjan Mohanty, Mr. Tarunveer Singh Taggar, Ms. Meenal Gandhi and Ms. Yogita Sharma, Advocates.

versus

THE STATE TRADING CORPORATION OF INDIA LIMITED
.....Respondent
Through: Mr. Tarkeshwar Nath, Advocate.

105
\+ W.P.(C) 13587/2022

AKSHAT SOLANKI .....Petitioner
Through: Mr. Tushar Ranjan Mohanty, Mr. Tarunveer Singh Taggar, Ms. Meenal Gandhi and Ms. Yogita Sharma, Advocates.

versus

THE STATE TRADING CORPORATION OF INDIA LIMITED
.....Respondent
Through: Mr. Tarkeshwar Nath, Advocate.

106
+ W.P.(C) 15140/2022

TAHMEENA MIR .....Petitioner
Through: Mr. Tushar Ranjan Mohanty, Mr. Tarunveer Singh Taggar, Ms. Meenal Gandhi and Ms. Yogita Sharma, Advocates.

versus

THE STATE TRADING CORPORATION OF INDIA LIMITED
.....Respondent
Through: Mr. Tarkeshwar Nath, Advocate.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **11.09.2024**

1. These writ petitions have been filed by the Petitioners under Articles 226/227 of the Constitution of India seeking directions to the Respondent to pay to the Petitioners the amount of Employers' Contribution towards the Pension Scheme along with interest and to reinstate them back into service with benefits of Post-Retirement Group Medical Scheme. Since common questions are involved in all the writ petitions, they were taken up together and are being disposed of by this common order.

2. Petitioners were employed with the Respondent in various capacities. Respondent issued a Circular dated 20.06.2019 followed by another Circular dated 19.11.2020 offering voluntary retirement to the employees of the

Respondent/Corporation on specified terms and conditions. Petitioners applied for voluntary retirement under the Circulars and opted for severance benefits. Respondent accepted their requests and Petitioners were relieved from the service of the Corporation as sought by them.

3. Case of the Petitioners, as articulated by Mr. Mohanty, learned counsel is that in terms of Clause 3.2.6 of Circular dated 20.06.2019 and Circular dated 19.11.2020, an employee opting under Voluntary Retirement Scheme ('VRS') will be governed by Clause 10(b) of STC Employees' Defined Contribution Superannuation Scheme ('Pension Scheme') which provides a minimum period of 15 years of service for availing the benefit of the Scheme but this requirement was dispensed with by Clause 12.2 of O.M. dated 03.08.2017 issued by Department of Public Enterprises ('DPE') and yet the said amounts were not paid to the Petitioners. It is argued that while issuing the two Circulars, Respondent was silent about the impact of O.M. dated 03.08.2017 and Petitioners naturally assumed that the said O.M. would apply as the Respondent is governed and bound by DPE O.Ms. It is also urged that several Public Sector Undertakings have implemented O.M. dated 03.08.2017 and dispensed with the requirement of 15 years of minimum service to be eligible for pension. It is also contended that Respondent has failed to provide medical benefits as stipulated under The State Trading Corporation of India Ltd. (Retired Employees) Medical Benefits Scheme ('Medical Scheme') in terms of Clause 3.2.5 of the two Circulars aforementioned.

4. *Per contra*, Mr. Tarkeshwar Nath, learned counsel for the Respondent submits that Petitioners are not entitled to the benefits claimed and the petitions deserve to be dismissed. It is submitted that on recommendations

of 3rd Pay Revision Committee ('PRC'), DPE vide O.M. dated 03.08.2017 implemented pay revision of Board Level and below Board Level Executives and Non-Unionised Supervisors of Central Public Sector Enterprises ('CPSEs') w.e.f. 01.01.2017. The implementation was subject to condition of affordability so that the additional financial impact of implementing revised pay package should not be more than 20% of the average Profit Before Tax ('PBT') of the last three Financial Years preceding the year of implementation. Respondent was incurring average net loss from the Financial Year 2015-16 onwards and therefore the revised pay scales were not adopted by the Corporation and hence DPE O.M. dated 03.08.2017 was not implemented.

5. It is urged that Petitioners had not served Respondent for a minimum period of 15 years in terms of paragraph 10(b) of the Pension Scheme and were thus not entitled to the Employers' Contribution. Petitioners were only entitled to the amount accumulated by way of employees' contribution including additional voluntary contribution, if any, and interest accrued thereon, which has been paid to them. Likewise, Petitioners are not entitled to the benefit of Medical Scheme since they did not have 15 years of service with the Respondent at the time of seeking VRS and that is the mandatory requirement of the Scheme itself. Insofar as the argument of the Petitioners that the requirement of 15 years service was dispensed with vide Clause 12.2 of DPE O.M. dated 03.08.2017 is concerned, Mr. Nath, submits that the same is not applicable to the Respondent in view of the affordability clause in the said O.M. Respondent's average PBT of the last three Financial Years preceding the year of implementation was negative and therefore, the pay revision envisaged under DPE O.M. dated 03.08.2017 was not implemented

and the provisions of the O.M. will not bind.

6. Heard learned counsels for the parties and examined their rival submissions.

7. Mr. Mohanty has pressed two reliefs in the present writ petitions i.e. employer's share under the Pension Scheme and medical benefits under the Medical Scheme. For the sake of completeness, it may be noted that Petitioners in W.P.(C) 7352/2022 joined Respondent on different dates between 08.11.2007 to 27.07.2016 and applied for voluntary retirement under the aforementioned two Circulars dated 20.06.2019 and 19.11.2020 on different dates, which were accepted by the Respondent. Petitioner in W.P.(C) 13456/2022 joined Respondent on 04.10.2010 and applied for VRS on 11.12.2020, which was accepted on 23.12.2020. Petitioner in W.P.(C) 13558/2022 joined Respondent on 26.09.2011 and applied for VRS on 15.01.2021, which was accepted on 29.01.2021. Petitioner in W.P.(C) 13585/2022 joined Respondent on 19.05.2011 and applied for VRS on 23.11.2020, which was accepted on 22.12.2020. Petitioner in W.P.(C) 13586/2022 joined Respondent on 30.10.2006 and applied for VRS on 31.12.2020, which was accepted on 15.01.2021. Petitioner in W.P.(C) 13587/2022 joined Respondent on 08.10.2012 and applied for VRS on 02.12.2020, which was accepted on 23.12.2020. Petitioner in W.P.(C) 15140/2022 joined Respondent on 08.10.2012 and applied for VRS on 04.01.2021, which was accepted on 15.01.2021 w.e.f. 19.01.2021. Petitioners have based their claims for benefit under the Pension Scheme and the Medical Scheme. A bare reading of Clause 10(b) of the Pension Scheme shows that an employee seeking VRS would be entitled to pensionary benefits from the date of cessation of his/her service provided

that he has completed not less than 15 years continuous service. Similarly, Clause 2.2(b) of the Medical Scheme stipulates that the Scheme will be applicable to employees who seek voluntary retirement after putting in at least 15 years of service. It is an undisputed fact that none of the Petitioners had 15 years of service to their credit on the date their requests for voluntary retirement were accepted and therefore, the benefits of the Schemes cannot be given to them. There is no challenge to the aforementioned clauses by the Petitioners in any of the writ petitions. Further, Clause 6.1 of the VRS Scheme provided that the Scheme was not negotiable and in paragraph 8 of the applications preferred by the Petitioners seeking VRS, they had categorically stated that they accepted the terms and conditions stipulated in the Scheme unconditionally and irrevocably, basis which their requests for VRS were processed and accepted.

8. Insofar as the argument of the Petitioners that the requirement of minimum 15 years of service was dispensed with by Clause 12.2 of DPE O.M. dated 03.08.2017 is concerned, Respondent has categorically stated in the counter affidavit that it is not governed by the relevant clauses for the reason that Respondent's average PBT of the last three Financial Years preceding the year of implementation was negative and therefore, Respondent did not implement the pay revision recommendation under 3rd PRC. Paragraph 3 of the said O.M. itself provided that the revised pay scales will be implemented subject to the condition that the additional financial impact in the year of implementing the revised pay package for Board Level Executives, below Board Level Executives and Non-Unionised Supervisors should not be more than 20% of average PBT of the last three Financial Years preceding the year of implementation and it was thus not mandatory

to revise the pay scales. In view of the fact that Petitioners did not fulfil the mandatory condition of serving for minimum 15 years with the Respondent, they cannot be granted benefits under the Pension Scheme or the Medical Scheme.

9. Writ petitions are accordingly dismissed being devoid of merit.

JYOTI SINGH, J

SEPTEMBER 11, 2024/kks/shivam