

Court No. - 1

Case :- WRIT - A No. - 1366 of 2024

Petitioner :- Mohd. Ilyas And Another

Respondent :- Union Of India Thru. General Manager North Eastern Railway , Gorakhpur And Others

Counsel for Petitioner :- Saroj Kumar Verma, Praveen Kumar, Sudhanshu Srivastava

Counsel for Respondent :- A.S.G.I.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Brij Raj Singh, J.

1. Short counter affidavit filed by opposite party nos.1 to 5 is taken on record.
2. Heard Shri Praveen Kumar, learned counsel for the Petitioners and Shri S.B. Pandey, learned Senior Advocate and Deputy Solicitor General of India assisted by Shri Vinay Tripathi, learned counsel for the opposite parties.
3. This writ petition is directed against the judgment and order rendered by the Central Administrative Tribunal (in short 'Tribunal') in Original Application (in short 'O.A.') No.357 of 2017 on 06.12.2023 whereby the O.A filed by the Petitioners has come to be dismissed on the ground that the Scheme under which the appointment of the Petitioners was made had come to be terminated by the authorities with effect from 27.10.2017. It is no more *res-integra* that the benefits of the Scheme with effect from 27.10.2017 have come to be terminated and the issue has attained finality.
4. Learned counsel for the Petitioners has argued that the benefit of appointment which was accorded to the petitioners prior to 27.10.2017 is staked by virtue of the notification dated 26.09.2018 as contained in Annexure 9 to the writ petition.
5. Un-disputedly, the appointment of the Petitioner no.1 under

the Scheme in question was made on 23.08.2016 and he was allowed to join and paid salary. It appears that the benefit granted to the petitioners under the Scheme in question i.e. Safety Related Retirement Scheme by RBE No.4 of 2004 also came within the scrutiny of the authorities concerned and consequently, an order was passed on 01.11.2017 whereby the benefits so accorded was withdrawn.

6. Learned counsel for the Petitioners in the light of the Circular dated 26.09.2018 has argued that the Petitioner no.1 was granted the benefit under the Scheme treating his father (petitioner no.2) to have fulfilled the requisite criterion on the post of Pointsman which post he was holding on being promoted from the post of Gateman with effect from 30.08.1986. It is not in dispute that the Grade-Pay on the post of Pointsman is Rs.1900/- therefore, the application of the Petitioner's father (petitioner no.2) under the Scheme for appointment of his son namely, the Petitioner No. 1 does not appear to have been considered as per the criteria set out vide Circular dated 07.10.2010 and subsequently, clarified on 01.12.2014 and 01.12.2015 applicable in this regard. This position has been clarified before us in the supplementary counter affidavit filed by the opposite parties. There is no averment or material on record which may indicate that the Grade-Pay on the posts of Pointsman is Rs.1900/-or less. Therefore, the contention of the Petitioner no.1 that he was eligible to be accommodated under the Scheme, in our considered opinion, is wholly base-less, and unfounded. Once the petitioner's father was promoted on the post of Pointsman having a Grade-Pay of Rs.1900/-, he fell outside the scope of the Scheme under which the appointment was granted.

7. The Hon'ble Apex Court in the case of *Manjit and others vs.*

Union of India and another in Writ Petition (Civil) No.78 of 2021 decided on 29.01.2021 and in the case of Abhishek Kumar Jha and others vs. Union of India and another in Writ Petition (Civil) No.1407 of 2019 decided on 28.01.2021 respectively has clarified that the Scheme itself being violative of the Article 14 of the Constitution of India would not be available to any of the employees for future and it is for this reason that the benefit of the Scheme having been terminated with effect from 27.10.2017 has come to be upheld.

8. We would have granted the benefit of the Circular dated 26.09.2018 (Annexure 9) in its letter and spirit provided the eligibility criterion was duly possessed by the Petitioner's father which in the case at hand does not appear to be satisfied.

9. For the reasons recorded in the judgment passed by the Tribunal and what we have recorded hereinabove, the writ petition filed by the petitioners does not make out a case for interference. Hence, the petition being bereft of merit is, accordingly, dismissed.

Order Date :- 12.3.2024
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