(2021) 02 GAU CK 0036

In the Gauhati High Court

Case No : Writ Petition (C) No. 3308 Of 2016

A. Mohendra Singh APPELLANT

Vs

Chiarman, Board Of Trustee Prbc Trust And 2 Ors RESPONDENT

Date of Decision : 03-02-2021

Acts Referred:
Constitution Of India, 1950 — Article 226

Citation : (2021) 02 GAU CK 0036

Hon'ble Judges : Manish Choudhury, J

Bench : Single Bench

Advocate : S.P Bora, S K Chakrabortyr

Final Decision : Dismissed

Judgement

1. Heard Mr. P.K. Das, learned counsel for the petitioner and Mr. P.K. Roy, learned counsel appearing for all the respondents.

2. This writ petition under Article 226 of the Constitution of India is preferred for not granting the benefit pertaining to an Ex-Gratia Benefit Scheme

formulated by the respondent Oil and Natural Gas Corporation (ONGC) Limited under the name and style of â??Agrani Sammanâ??. The scheme

â??Agrani Sammanâ?? was published by the respondent ONGC vide a notification in the English daily newspaper, â??the Times of Indiaâ? in its

issue dated 14.01.2003. In the said notification, it was declared that the respondent ONGC authorities took a decision to introduce â??Agrani

Sammanâ?? Ex-Gratia Benefit Scheme to the ex-employees in recognition of the valuable contribution made by them as pioneers to the cause of

ONGC.

3. The scheme was extended to the following two categories of employees:-(i) eligible preâ?"15.10.1959 employees who superannuated/voluntarily

retired/died while in service (ii) those eligible postâ?"14.10.1959 employees who superannuated/voluntarily retired/died while in service prior to

01.04.1991 (in case of Executive) and 16.11.1995 (in case of Non-Executive) after rendering minimum 10 years of service in the ONGC.

4. The benefits under the â??Agrani Sammanâ?? Ex-gratia Benefit Scheme were made available w.e.f. 01.01.2003. It was made clear that the

payment under â??Agrani Sammanâ?? Ex-gratia Benefit Scheme was purely and entirely ex-gratia and not because of any right of entitlement. The

rates of â??Agrani Sammanâ?? Ex-gratia Benefit Scheme per month for different categories of employees were also notified vide the said

notification. Pursuant to the notification regarding â??Agrani Sammanâ?? Ex-gratia Benefit Scheme and subsequent clarifications issued from time to

time in that regard, the respondent ONGC authorities had issued an office order dated 07.02.2012 clarifying certain more aspects with regard to

â??Agrani Sammanâ?? Ex-gratia Benefit Scheme. The relevant parts of the said office order read as under :

â??2. Queries have been received from work centres seeking clarification as to whether Post-14.10.1959 ex-class-lll employees who were upgraded

to EO pay scale between 31.3.1991 and 15.11.1995 and separated prior to 16.11.1995 are to be considered for grant of â??Agrani Sammanâ?? under

Class-lll/Class-lV slab w.e.f. 1.1.2003.

3. Further, Circular No. PRBS-18 dated 26.4.1993 issued by Chairman, Board of Trustee (PRBS) Trust envisaged that PRBS is meant for regular

existing executives. Class-lll employees who have been upgraded to EO pay scale can not be included within the preview of scheme. As such, Ex-

class-lll employees (upgraded to EO pay scale & above) were denied the membership of PRBS treating them non-executives as PRBS was optional

and was applicable to executives only. However, PRBS was introduced for unionized categories of employees w.e.f. 15.11.1995.

4. In view of the above, it is hereby clarified that Post-14.10.1959 ex-class-lll employees who were upgraded to executive pay scale between

31.3.1991 and 15.11.1995 and separated prior to 16.11.1995 may be considered for grant of â??Agrani Sammanâ?? w.e.f. 1.1.2003 as applicable to

Class-lll/lV under the scheme.

5. This issues with the approval of Director (HR).â??

5. The case of the petitioner is that he joined the ONGC in the year 1961 and thereafter, he was upgraded from Class III to Executive Officer (EO) in

the year 1986. He stood retired from service w.e.f. 30.06.1995 on reaching the age of superannuation. After his retirement on superannuation, the

petitioner and 59 others who were serving as Supervisors (Heavy Vehicles), were provided the benefit of deemed personal upgradation to the post of

Supervisor (HV) E-1 level w.e.f. 01.01.1993 for payment of all financial benefits vide an office order dated 23.12.1997. The beneficiaries of the office

order dated 23.12.1997 by such personal upgradation to E-1 level, were given financial benefits by notionally fixing their pay w.e.f. 01.01.1993 without

any payment of arrears for the period prior to 01.01.1993.The payment of arrears on account of pay fixation inclusive of all consequential benefits

such as gratuity etc. for the period from 01.01.1993 (effective date of upgradation) to the date of their retirement/voluntarily retirement/expiry would

be paid to them/their legal heir.

6. The petitioner has approached this Court seeking a direction to the respondent ONGC authorities to grant him the benefit of â??Agrani

Sammanâ?? Ex-gratia Benefit Scheme after rejection of his representations made before the respondent ONGC authorities in that regard, by orders

dated 12.04.2013 and 29.01.2014. The petitioner is seeking a direction without putting these two orders of rejection under challenge. Be that as it may.

7. The petitioner has claimed to fall in the category of post-14.10.1959 category of employees as he joined service in the ONGC in the year 1961 and

he retired from service on 30.06.1995 on reaching the age of superannuation. He had also served the organization for more than 10 years which is

minimum qualifying period of service to get the benefit under the â??Agrani Sammanâ?? Ex-gratia Benefit Scheme. It is the case of the petitioner

that since he is a postâ?"14.10.1959 employee and retired on 30.06.1995 on reaching the age of superannuation i.e. before 16.11.1995 and was

serving in a Non-Executive post in view of the clarification provided by the office order dated 07.02.2012, he shall be extended the benefit under the

said scheme. Rather, the denial on the part of the respondent authorities to extend the benefit to the petitioner was based on the office order dated

07.02.2012. According to him, it was clarified by the office order dated 07.02.2012 that postâ?"14.10.1959 exâ?"Classâ?"III employees who were upgraded to EO Pay scale between 31.03.1991 and 15.11.1995 and retired prior to 16.11.1995 could be considered for grant of â??Agrani

Sammanâ?? Ex-gratia Benefit Scheme w.e.f. 01.01.2003 as applicable to Class III/Class IV under the said scheme.

8. It has been asserted by the respondent ONGC authorities in their affidavit-in-opposition that as per the ONGC Staff Regulation, the Executive level

post begins at E-O level and Executive post at E-O level is the feeder category for promotion to E-1 Executive post.

9. In the order dated 12.04.2013 whereby the claim of the petitioner was denied, it was stated that the petitioner was upgraded from Class III to Class

II E-O prior to 31.03.1991 i.e. w.e.f 24.07.1981 and his case did not fall within the criteria which required to have upgradation between the period

from 31.03.1991 and 15.11.1995 to the Executive cadre. By the office order dated 07.02.2012 only those who were upgraded to Executive level, E-O

between 31.03.1991 and 15.11.1995 were made eligible to get the benefit under â??Agrani Sammanâ?? Ex-gratia Benefit Scheme. Since the

petitioner was upgraded to the Executive level, E-O w.e.f. 24.07.1981, the petitioner when he was provided deemed personal upgradation to the post

of Supervisor (HV) E-1 level w.e.f. 01.01.1993, was already serving in the Executive post at the level of E-O. The said position is not denied on

behalf of the petitioner nor the petitioner has challenged the two orders dated 12.04.2013 and 29.01.2014. In the writ petition, the petitioner himself has

admitted the said position.

10. The Latin word, â??ex gratiaâ?? means â??by favourâ??. An ex gratia payment is made to an individual by an organisation or government etc.

voluntarily as a favour. It is to be borne in mind that the party making the ex gratia payment is not obligated under the law to make such payment.

Thus, ex gratia payment is different from a legally mandated payment. In the case of the later an individual has a right to claim but in case of the

former, an individual cannot claim as a matter of right.

11. From the facts that have emerged from the materials on record, the petitioner does not fall within the category of employees who can be extended

the benefit under the â??Agrani Sammanâ?? Ex-gratia Benefit Scheme formulated by the respondent ONGC authorities.

12. In view of the same, this writ petition is not entertained and consequently,

the same stands dismissed.

