

(2013) 07 DEL CK 0593

In the Delhi High Court

Case No : Writ Petition (C) No. 4448 of 2013

Amar Nath and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0593

Hon'ble Judges : Gita Mittal, J;Deepa Sharma, J

Bench : Division Bench

Advocate : Vinod K. Tewari and Mr. Pankaj Kumar Singh, for the Appellant; Sunil Kumar, for the Respondent

Final Decision : Allowed

Judgement

Gita Mittal, J.—With the consent of both the parties, this writ petition is taken up for consideration and the matter is being heard finally. The facts giving rise to the petition are within a narrow compass and are mainly undisputed. To the extent necessary the same are briefly noted hereinafter.

2. The petitioners joined the Border Roads Organization on various dates and are holding the posts of Overseer, S/D" Man, Electrician or Vehicle Mechanic, Welder and Turner. The petitioners are posted in various projects and they have claimed in the writ petition that they are entitled to all the rights and privileges as have been made available to other personnel in the posts, who are similarly posted as the petitioners.

3. It is undisputed that the petitioners were appointed in accordance with Recruitment Rules at different points of time. The writ petition pertains to the subject of pay fixation with effect from 1st January, 1996 and its consequential impact with effect from 1st January, 1996.

4. It is stated that the issue raised for decision in this writ petition had been finally adjudicated. In this regard our attention is drawn to the following decisions:-

(i) Decision dated 10th September, 2010 passed by learned Single Judge of Guwahati High Court in W.P.(C) 51/2009 titled as Ghan Shyam Vishwarkarma v. The Director General, BRO & Ors.

(ii) Decision mentioned above was upheld by a Division Bench of the Guwahati High Court vide its decision dated 18th March, 2011.

(iii) SLP CC 14236/2011 dismissed by the Hon"ble Supreme court on 1.11.2011.

(iv) Decision dated 6th September, 2012 passed by learned Single Judge of this court in W.P. (C)5383/2012 titled as Vijay Kumar Singh & Anr. V. Union of India and Ors.

(v) Order passed by a coordinate bench of this court in WP (C) 2972/2012 on 30.10.2012, titled as Penubolu Jagdish and Ors. v. Union of India and ors.

5. In view of the law laid down and adjudication by the Guwahati High Court, which had attained finality in W.P. (C) No. 5583/2012, wherein a similar claim was raised on 6th September, 2012, this court has issued the following directions:-

3 Suffice would it be to state that when a principle of law pertaining to payment on fixation is decided by a Court on a writ petition filed by an individual but decision relates to a matter of principle of law to be applied, the said decision has to be implemented in rem, i.e. with respect to all such persons who hold similar posts and not qua the persons who approach the Court.

4 Accordingly we disposed of the writ petition directed the respondents that whatever decision would be taken by the respondents with respect to the decision of the Guwahati High Court pertaining to the writ petition filed by Ghan Shyam Vishwakarma would be made applicable to all persons holding posts of Overseers and Superintendent Gr. II. in BRO.

6. It is therefore trite that when a principle of law pertaining to payment on pay fixation is decided by a Court in a writ petition filed by an individual but the decision relates to a matter of principle of law to be applied, such a decision has to be implemented with respect to all such persons who hold similar posts. It is not disputed before us that the above directions squarely apply to the present case and the petitioners are entitled to the relief which stands granted in the above judicial precedents.

7. Inasmuch as the petitioners have been compelled to approach this court and judicial time has been wasted in having to consider the adjudication of the subject matter, the respondents are liable to pay costs.

8. It is made clear that in case of failure to follow the law laid down by the court and if the directions of the court are not strictly being adhered to, the same would render the respondents liable for appropriate action under the Contempt of court Act. Further it is made clear that in case the respondents do not comply with the directions made by this court vide order dated 6th September, 2012, we

would not hesitate to proceed against them as per law.

9. Having regard to the above, a direction is issued to the respondent to consider the petitioners' case with respect to all such persons who hold the similar posts. We reiterate the directions made by this court specifically directing that the decision taken by the respondents with respect to the adjudication by the Guwahati High Court in W.P. (C) No. 51/2009 filed by Ghanshyam (supra) would be applicable to all persons holding the posts of Overseers and Superintendent Grade II in BRO.

10. In view thereof, the respondents are additionally directed to pay the costs which are quantified as follows:-

(i) the respondents shall pay an amount of Rs. 500/- to each petitioner which shall be paid additionally along with next month's salary and other allowances.

(ii) The respondent shall deposit an amount of Rs. 15,000/- with the Delhi High Court Mediation and Conciliation centre within two weeks from today.

The writ petition is allowed in the above terms.