(1988) 04 GAU CK 0011

In the Gauhati High Court

Case No : Civil Rule No. 822 of 1987

B.B.Dam APPELLANT

Vs

State of Assam RESPONDENT

Date of Decision : 06-04-1988

Acts Referred:

Citation : (1988) 1 GLJ 509 : (1988) 2 GLR 362

Hon'ble Judges : B.L.Hansaria, J and S.Haque, J

Bench : Division Bench

Advocate : N.Islam, D.P.Chaliha, B.K.Das, Advocates appearing for Parties

Judgement

Hansaria, C. J. (Acting)

1. Nakara, 1983 (3) SCC 305, is a Magna Carta for the pensioners inasmuch as it has delved deep info the pangs suffered by the pensioners due to rising prices and falling purchasing powers of the rupee. Nakara pronounced that pension is not only compensation for loyal services rendered in the past, but has a broader significance in that it is a measure of socioeconomic justice which takes care of economic security in life. One who has given his best in the heyday of his service life must be taken care of when h is unable to take care of himself due to falling health and depleted mental process.

2. Nakara, therefore, refused to make available 1972 Pension Rules liberalised in 1979 to those persons who bed retired on or after 31.3.79. These liberalised Pension Rules were made applicable to those as well who were governed by the 1972 Rules. Following Nakara, the Central Govern meat issued certain Office Memorandum following which the State of Assam also made available the benefit of slab system of the Liberalised Pension Formula to certain categories of pensioners. In this application under Article 226 of the Constitution, we are concerned with those p3rsons who had retired before 13th February, 1^.4 or who retired after that day but opted to be governed by earlier Rules. The ''question is whether the benefit of the Liberalised Pension Formula which has

been made available by the State of Assam to persons mentioned in para 13 of the Formula can be made available to the aforesaid persons as well.

3. It may be stated that so far this State is concerned, some Pension Rules were if, existence in i939 which were liberalised in 1954 and, subsequently, further liberalised in 1969 The Liberalised Pens.on Formula issued by the State of Assam, however, made available the benefit of the liberalisation to those persons who had retired after 13th February, 1954, and debarred the same benefit to those who had retired before that day or had retired after that date but had opted be governed by the 1939 Pension Rules. The point for consideration is whether there is any rational basis for debarring the persons who had retired before 13th February, 1954, or had retired after that date but had opted for 1939 Pension Rules. Having heard Shri Das for the petitioner and Shri Chaliha for the respondents, we are not satisfied if there is any reasonable basis for the aforesaid classification. May we state that the benefit of the Liberalised Pension Formula has been made available to persons who retired after 13th February, 1954 despite nonavailability of service records and as such the fact that the service records of the persons with whom we are concerned is not available cannot be a ground for denying them the benefit of liberalised pension. May we also say that we are concerned only with about 20 persons and that the monetary benefit out of the revised formula which they would receive would be at the most Rs. 90/ per month ; one would receive only Rs. 12.25 more.

4. Shri Das has rishtly drawn our attention to certain observations made in para 39 of Nakara wherein it was observed by their Lordships that the Government had decided for liberalisation of the pension Formula in view of the continuous upward movement of the cost of living index as a sequel to inflationary input and diminishing purchasing power of rupee. It has also been brought to our notice by Shri Das that even under the Liberalised pension Formula one of the petitioner who had retired as Superintendent of police would be entitled to get a sum of Rs. 406/as monthly pension because the pay scale of the Superintendent of Police at the relevant time was Rs. 600 1000/which is presently Rs. 15002175/and so his counterpart now retiring would he getting a pension of about Rs. 1,100/. The fall in purchasing power of the rupee has been so drastic during the last 3/4 decades that it is unthinkable that any person can even make the two ends meet with a sum of Rs. 406/per month.

5. As we are not satisfied about any rational basis about the aforesaid classification, we are of the view that the benefit of the Liberalised Pension Formula of which mentiob has been made in the Office Memorandum No. FMP. 62/83/42n dated Dispur the 25th December, 1985 should be made available to those Government servants also who had retired before 13th February, 1954 or had opted for 1939 Pension Rules having retired after that date. We accordingly direct the respondents to grant pension as per the aforesaid Office Memorandum to the aforesaid persons as well.

6. In so an as the arrears are concerned, it has been noted that the aforesaid

Office Memoranda n had granted arrears with effect from 8th November, 1979, only and we would therefore direct the respondents to make available the arrears to the petitioner at hand from the date if the same was made available to those persons who h retired after 13th February, 1954. As most of the petitioners are not in the age group of''/8 to 85, the benefit of the Liberalised Revised Pension Formula has to be made available to them before it is too I for them to reap the advantage. We, would accordingly direct the respondents to take necessary steps in this regard within a period of 3 months from the date of receipt of this order by the respondent The office would take necessary stens to communicate the order to the respondents within a period of two weeks from today.

7. In the result, the petition is allowed as aforesaid.

