

(2015) 08 AHC CK 0142

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 24600 of 2013

Director, Central Board of Workers Education and Others

APPELLANT

Vs

V.B. Saxena and Others

RESPONDENT

Date of Decision : 13-08-2015

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2015) 9 ADJ 437 : (2015) 113 ALR 88 : (2015) 5 AWC 5218 : (2016) 148 FLR 423 : (2015) 3 UPLBEC 2483

Hon'ble Judges : Arun Tandon and Ashwani Kumar Mishra, JJ.

Bench : Division Bench

Advocate : Devi Shanker Shukla, R.B. Singhal and Ashok Mehta, for the Appellant; M.K. Upadhyay, H.C. Saxena, N.C. Saxena and S.C., for the Respondent

Final Decision : Allowed

Judgement

1. Heard learned counsel for the parties and perused the record. The Director, Central Board for Workers Education, Nagpur and its other office bearers of the Board as well as the Union of India have filed this writ petition against the judgment and order of the Central Administrative Tribunal dated 9.11.2012 passed on Misc. Application No. 1529 of 2011 in Original Application No. 978 of 2009 (V.B. Saxena and others v. Union of India).

2. From the records, we find that Original Application No. 978 of 2009 was filed by 13 applicants, who had retired from service of the petitioner-Board prior to 1.1.1996. By means of the said original application, it was prayed that the Tribunal may issue a direction commanding the respondent authorities, i.e. petitioners before us, to implement the recommendation of Das Gupta Pay Sub Committee in respect of applicants, who had retired prior to 1.1.1996 also.

3. Tribunal disposed of the matter requiring the authority to decide the representations made by the original applicants dated 10.12.2010/12.2.2009 addressed to the Secretary, Government of India, Ministry of Labour and

Employment in accordance with law.

4. It was specifically observed that the Tribunal has not entered into the merits of the case.

5. The Secretary to the Government of India vide order dated 5.2.2010, rejected the representation after recording that the order of the Administrative Tribunal, Calcutta in the matter of grant of notional upgradation in respect of similarly situate employees of the Board has been subjected to challenge before the Calcutta High Court. Therefore, the benefits, which have been extended vide judgment of Calcutta Bench need not be provided to the applicants.

6. This order was challenged by making an application under Rule 24 of the Central Administrative Tribunal Rule, 1997 i.e. Application No. 988 of 2010.

7. The Tribunal passed an order requiring the authorities to examine the matter in light of the judgment of the Calcutta Bench in Original Application No. 566 of 2007. The Secretary to the Government passed a fresh order in compliance of the order of Tribunal dated 18.3.2011 and again reiterated that since the order of the Tribunal at Calcutta has been challenged by the Board before the Calcutta High Court, therefore, its benefit need not be provided to the applicants.

8. The applicants again made an application under Section 24 of the Central Administrative Tribunal Rule, 1997 being Application No. 1529 of 2011. This time, the Tribunal has been pleased to allow the application and has issued a direction to the respondents to relook into the matter in light of the fact that although, the order of the Tribunal has been subjected to be challenged before the Calcutta High Court, but no interim order has been granted and, therefore, the order of Tribunal at Calcutta has to be given effect thereof.

9. It is against this order, the present writ petition has been filed.

10. Sri Ashok Mehta, Additional Solicitor General of India on behalf of the petitioner submitted before us that the proceedings under Section 24 of Central Administrative Tribunal Rules, 1997 cannot be extended for quashing the order passed by the authorities in the matter of decision on the representation. If an applicant is not satisfied with the decision taken on the representation for good reasons, he can approach the Tribunal again by means of his original application under Section 19 of the Administrative Tribunal Act. An application under Rule 24 of the Rules would not be maintainable for pointing out the illegalities, if any, in the order of the authority concerned made in compliance to an earlier order passed in original application more so when, the Tribunal in the order passed in the original application, had specifically recorded that it was not entering into merits of the issues raised and, the authority was free to pass an order in its discretion.

11. Learned Counsel for the respondents could hardly dispute the contention, which has been raised on behalf of the petitioners before us with regard to the scope of proceedings under Rule 24 of the Rules 1997.

12. We, in the facts of the case, are satisfied that the proceedings under Rule 24 of the Rules 1997 could not be resorted to by the applicants, for questioning the order passed only on their representation specifically in light of the order of the Tribunal made in the Original Application No. 978 of 2009 where the Tribunal had recorded that it was not entering into the merits of the claim, and the authority was to decide the representation in its unfettered discretion.

13. In our opinion, the correctness of the order passed by the authority, in compliance of such an order of the Tribunal passed in original application filed under Section 19 of the Central Administrative Tribunal Act, could not be questioned under Rule 24 of Rules 1997.

14. The scope of proceedings under Rule 24 cannot be expanded in the manner, as has been done by the Tribunal in the facts of the case.

15. The application made by the applicants being Application No. 1529 of 2011 was not within the scope of Rule 24 of 1997 Rules and, therefore, the order impugned of the Tribunal in the present writ petition cannot be legally sustained.

16. Scope of proceedings under Rule 24 have been explained by the Apex Court in the case of Union of India (UOI) Vs. J.R. Dhiman, .

17. Leaving the matter at this stage, in our opinion, would not serve the interest of substantial justice, inasmuch as, we are of the opinion that if the employees of the Board similarly situate i.e. who have retired prior to 1.1.1996 are being provided monetary benefits in terms of the order of Tribunal at Calcutta than the Board should not deny similar relief to the other employees. Mere pendency of the writ petition will not operate as stay of the order of Tribunal at Calcutta.

18. We are of the opinion that the authority must pass a fresh order in light of what has been recorded by us hereinabove keeping in mind the plea of party as well as the legal proposition that mere pendency of writ petition will not amount to stay of the order under challenge.

19. The exercise shall be completed by the petitioner No. 3 preferably within two months from the date a certified copy of this order is filed before him. The writ petition is accordingly allowed subject to the observations made above.