(2002) 02 JH CK 0090

In the Jharkhand High Court

Case No : LPA No. 73 of 2002

Dr. Narendra Narayan Roy and Another — APPELLANT

Vs

State of Jharkhand and Others — RESPONDENT

Date of Decision : 01-02-2002

Acts Referred:

Citation : (2002) 50 BLJR 668 : (2003) 1 LLJ 5

Hon'ble Judges : Vinod Kumar Gupta, C.J;Vishnudeo Narayan, J

Bench : Division Bench

Advocate : S.B. Gadodia, for the Appellant; R.N. Sahay, SCI and A.K. Mehta, JC to SCI, for the Respondent

Final Decision : Dismissed

Judgement

The Court

1. This appeal under Clause 10 of the Letters Patent is directed against an order dated 7.1.2002 passed by a learned Single Judge of this Court whereby, relying upon an earlier judgment of a Single Bench of this Court in the case of Chandra Prabha Devi fit Ors. v. Regional Institute of Technology fit Ors. reported in 2001 (3) JCR 281 (Jhr) : 2001 (2) JLJR 457 and agreeing with the contentions of the respondents that the grant of Triple Benefit Scheme (Payment of Pension. Gratuity and General Provident Fund) was to be applicable from 6.9.1999 and not from 1.4.1992, dismissed the writ application filed by the appellants.

2. The appellants'' main contention is that the Board of Regional Institute of Technology. Jamshedpur. had adopted a resolution whereby it decided to extend the benefit of the aforesaid Triple Benefit Scheme with effect from 1.4.1992 but the actual benefit was given from 6.9.1999 purportedly and apparently owing to the fact that it was only on this date that the Government of Bihar had passed a resolution to that effect.

3. Undoubtedly, the resolutions adopted by the Board of Governors, RIT, Jamshedpur on 4.1.1992 and 22nd September, 1992, did say that the Triple

Benefit Scheme would be applicable to the employees who would retire from the service of the Institution on or after 1.4.1992 but it also at the same time and in the same breath stipulated that this was subject to the approval by the participating Governments. Undoubtedly Bihar was one of the two participating Governments, the other one being the Central Government. Now if the extension of this benefit was made subject to the approval of the participating Governments, (such approval having come only on 6th September, 1999) and because of this fact, the stipulation with regard to the extension of this Benefit being applicable from 1.4.1992 stood washed out because undoubtedly the extension of the Benefit was itself made subject to such approval. In other words, the approval having been granted on 6th September, 1999 was to be made applicable prospectively i.e. from that date only, unless the resolution of the Govt granting approval itself stated that it was to take effect from 1.4.1992 or from any date earlier or prior to 6.9.1999.

4. Viewed thus, the grievance of the appellants that the prospective approval of the extension of Tripple Benefit Scheme from 6.9.1999 was unreasonable, arbitrary and discriminatory does not seem to be well-founded. The contention of Mr.Gadodia learned senior counsel appearing for the appellants that within a class, macro classification was unin-telligently carved out, is without any proper foundation because, what to speak of carving out or creating a macro classification within a class, the prospective applicability of the Benefit Scheme does not in any manner offend Article 14 of the Constitution because it does not create any classification as such. The people to whom the benefit of the Scheme was to be made applicable by themselves are a complete class and whether such benefit was to apply from 1.4.1992 or from any future date, does not amount to any discrimination or can''t be termed as an arbitrary exercise of power.

5. We accordingly find ourselves in agreement with the view of the learned Single Judge and also approve the ratio in the case of Chandra Prabha Devi & Ors. v. Regional Institute of Technology & Ors., reported in 2001 (3) JCR 281 (Jhr) : 2001 (2) JLJR 457.

6. At this stage, Mr. Gadodia learned Senior Advocate appearing for the appellants submits that we should permit the appellants to , make a representation to the Govt. of Jharkhand for re- consideration of the question regarding retrospective or prospective applicability of the aforesaid extension of Triple Benefit Scheme based on the resolution adopted by the Board of Governors. RIT in 1992. Acceeding to such a limited prayer of the appellants, we permit them to make such a representation to the Govt. of Jharkhand. If such a representation is made within four weeks from today, the Govt. of Jharkhand is directed to consider the same and decide it within a period of four months from the date of its receipt purely on its merits and in accordance with law. Issuance of this direction, "however, shall not be considered as any expression of opinion by this Court with respect to the merits of the aforesaid representation.

7. With the aforesaid observations/ directions, this appeal is dismissed, but

without any order as to costs.

