

(2023) 03 GAU CK 0057
In the Gauhati High Court
Case No : Writ Appeal No. 279 Of 2022

Industrial Papers (Assam) Ltd

APPELLANT

Vs

State Of Assam

RESPONDENT

Date of Decision : 31-03-2023

Acts Referred:

Citation : (2023) 03 GAU CK 0057

Hon'ble Judges : Sandeep Mehta, CJ;Mitali Thakuria , J

Bench : Single Bench

Advocate : B.D. Konwar, Velentina V. Thangu, M. Bhattacharjee, P. Nayak, J. Barman, J.K. Goswami

Final Decision : Dismissed

Judgement

Sandeep Mehta, CJ

1. The instant writ appeal is directed against the judgment/final order dated 25.02.2021 passed by the learned Single Bench whereby, the writ petition [WP(C) No.3569/2015] preferred by the petitioners seeking a direction upon the respondents to extend benefits of pay revision to the petitioners [former employees of Public Sector Undertaking (PSU), namely, Industrial Papers (Assam) Ltd.] who were released under the revised Voluntary Retirement Scheme (VRS) dated 15.02.2006 and to grant them benefits of revised pay-scale with effect from 01.01.2016, was dismissed.

2. Learned Senior counsel Mr. B.D. Konwar representing the appellants urged that the appellants/petitioners are entitled to the relief sought for in the writ petition on the ratio of the judgment rendered by this Court in the case of All Assam STATFED Karmachari Aikya Manch and Ors. Vs. State of Assam and Ors., reported in (2014) 5 GLR 69. Learned Senior counsel urged that this judgment whereby analogous relief was granted to the employees of PSU, STATFED was later on affirmed by a Division Bench of this Court and then by the Hon'ble Supreme Court as well. He thus urged that the appellants/writ petitioners are

entitled to the relief claimed for.

3. Per contra, Mr. P. Nayak, learned Standing Counsel, Finance Department representing the respondent No.6 vehemently opposed the submissions advanced by the appellants' counsel. He urged that in the earlier round of litigation, the petitioners sought the same relief by filing an SLP before the Hon'ble Supreme Court which stands dismissed by judgment dated 10.01.2017 in the case of Industrial Paper (Assam) Ltd. Employees' Union vs. Management, Assam Industrial Development Corpn. Ltd. (AIDC), (2007) 3 SCC 73. He referred to the observations made in the said judgment whereby, the Hon'ble Supreme Court clarified that the employees or the recognized Unions shall be entitled to make claims for arrears of salary or claims to be due from the IPAL. However, neither the employees nor the Unions were held entitled to any other relief from the Corporation or from the Government.

4. He urged that the all permissible benefits under the VRS Scheme were extended to the writ appellants/petitioners by virtue of a notification dated 15.02.2006 and the Cabinet Memorandum on closure liabilities prepared by Public Enterprises Department which have attained finality as the same were not challenged any further. He thus urged that the appellants/writ petitioners are not entitled to the relief claimed for in this appeal.

5. We have given our thoughtful consideration to the submissions advanced at Bar and have gone through the impugned judgment and the material available on record.

The appellants herein approached the Hon'ble Supreme Court for assailing the judgment of Division Bench whereby, the benefits post the Voluntary Scheme were not afforded to the employees. The Hon'ble Supreme Court clearly ruled that the Division Bench judgment could not be faulted. However, despite the dismissal of the appeal, the employees or the recognized Unions could make claim for arrears of salaries or other claims due from the IPAL. It was further observed that a Committee had been appointed by the High Court in the matter of arrears of salary and on the question of absorbing of these sick public sector undertakings.

6. Apparently there is no dispute that the arrears of salaries and medical allowances etc. have already been paid to the petitioners.

7. The Public Sector Enterprises, in continuance of the Cabinet Memorandum have extended all permissible benefits to the erstwhile employees of the IPAL under Notification dated 15.02.2006 as has been indicated in the counter affidavit of the respondents.

Relevant paragraph No.4 of the said counter affidavit filed by the respondent No.6 is reproduced hereinbelow for the sake of ready reference.

"4. That, as regards to the statements made in paragraph 7 of the writ petition, the deponent begs to state that the State Government released Rs.127.4 Lakh

vide sanction No.FEA.127/2004/129, dated 01.10.2008 for VRS etc., (Annexure-A) and another amount of Rs.427.435 Lakh vide sanction No.FEA.122/2005/141, dated 30.04.2010 (Annexure-B) in respect of revised VRS, etc. as per ROP, 1998 on the basis of the Cabinet Memorandum on closure liabilities prepared by the Public Enterprises Department (Annexure-C) and duly approved by the State Cabinet (Annexure -D) against the demand received from the concerned Department. Employees of Industrial Papers (Assam) Ltd (IPAL) were released under revised VRS notification dated 15-02-2006 issued by P E Department (Annexure-E).

Copies of letter dated 01-10-2008, 30-04-2010, Cabinet Memorandum on closure liabilities prepared by the Public Enterprises Department, Cabinet approval dated 03.10.2008, Notification dated 15-02-2006 are annexed herewith and marked as Annexure-A, Annexure-B, Annexure-C, Annexure-D and Annexure-E, respectively.”

8. It is not disputed that, neither the notification dated 15.02.2006 nor the Cabinet Memorandum on closure liabilities prepared by the Public Sector Enterprise Department and approved by the Cabinet on 03.10.2008 have been challenged by the appellants/writ petitioners.

9. Thus, at this belated stage, the appellants/writ petitioners are not entitled to claim benefits of pay revision under the subsequent notifications which came into force after the appellants herein were released under the revised VRS notification. Otherwise also, if at all the appellants/writ petitioners were desirous to stake a claim for benefits not afforded to them under the revised VRS Notification, they could have approached the Committee concerned as has been pointed out in para No.16 of the Hon'ble Supreme Court in Industrial Paper (Assam) Ltd. Employees' Union (supra).

10. Hence, we are of the firm opinion that the view taken by the learned Single Bench while dismissing the writ petition, WP(C) No.3569/2015 preferred by the writ petitioners/appellants does not suffer from any infirmity warranting interference by this Court in this intra-Court appeal.

Consequently, the writ appeal fails and is dismissed as being devoid of merit.