
(1998) 01 SC CK 0066

In the Supreme Court Of India

Case No : S.L.P. (C) No. 16732/97 with T.P. (C) No. 489/97, T.P. (C) No. 490/97

NTC (IDA) Emp. Association

APPELLANT

Vs

U.O.I. and Others

RESPONDENT

Date of Decision : 28-01-1998

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 1998 SC 2585 : (1998) AIRSCW 2617 : (1998) 79 FLR 156 : (1998) 2 JT 665 : (1998) 1 SCALE 302 : (1998) 8 Supreme 264 : (1998) 1 UJ 703 : (1998) 2 UPLBEC 1132

Hon'ble Judges : S. B. Majmudar, J;M. Jagannadha Rao, J;A.P. Misra, J

Bench : Full Bench

Final Decision : dismissed

Judgement

1. With I.As. 3 to 6:

2. In this group of matters, the employees working in the subsidiaries of National Textile Corporation have made a grievance about not being given the pay scales as per I.D. Act. pattern though their colleagues who are not covered by the said pattern and are covered by the Central D.A. pattern have been given such pay scales and revision from time to time. Their aforesaid grievance also centers round the non-implementation of the Office Memorandum, dated 19.7.1995 which is annexed at page 36 of the SLP. A conjoined reading of this O.M. shows that their claim for such hike in pay scale has been accepted in principle. However, difficulty arises in view of the recitals in paragraph 13 of the said O.M. which reads as under:

"13. For sick PSEs registered with the BIFR, pay revision and grant of other benefits will be allowed only if it is decided to revive the Unit. The revival package should include the enhanced liability on this account. The benefit of pay revision, etc. shall be extended to IISCO and financial liability thereof shall be met by SAIL."

3. It is not disputed that the concerned subsidiaries of National Textile Corporation where the petitioners are working are sick units and they are before the Board for Industrial and Financial Reconstruction functioning under the provisions of Sick Industries Companies (Special Provisions) Act, 1985. Learned Additional Solicitor General, Mr. Reddy stated that whatever benefits are available under the aforesaid O.M. can be made available to them. However, because of the aforesaid Clause 13 at present the said relief cannot be granted to them as the revival package question is pending before the B.I.F.R. When this was pointed out to learned senior counsel for the petitioner-association he requested us to adjourn these cases for some time to enable the employees concerned to approach the B.I.F.R. for getting appropriate clearance in this connection. He vehemently contended that despite the concerned subsidiaries where these employees are working are sick units, and as such they are before the B.I.F.R. at least 90 per cent of their own employees who are covered by the C.D.A. pattern have been given the benefits of pay hike from time to time along with further hike in the light of the recommendations of the 4th & 5th Central Pay Commissions and only for these employees represented by petitioner-association such reliefs are not granted and therefore, according to him, they are being discriminated against. In our view, all these disputes may not survive if the petitioner-association makes appropriate application before B.I.F.R. for getting clearance in connection with the implementation of the benefits flowing from the said O.M. dated 19.7.1995, as admittedly such benefits are available to them but will have to be cleared by the B.I.F.R. for being actually implemented and made available to them. We also make it clear that apart from the employees represented by the petitioner-association in this SLP and those of the employees referred to in the I.As. for intervention, any other similarly situated employees who might have approached various High Courts where their writ petitions are pending and who are similarly circumscribed, may also approach B.I.F.R. for ventilating their grievances. All such applications will obviously be considered by the B.I.F.R. if the employees concerned approach for getting clearance from the B.I.F.R. This SLP will therefore, stand adjourned at present. In the meantime, the petitioner-association and other employees concerned, if so advised, may file appropriate applications before the B.I.F.R. We have not the least doubt that the B.I.F.R. will consider their grievances which are pending since long and will do the needful in the matter after hearing the parties concerned.

4. We may mention one submission of learned Additional Solicitor General in this connection. He stated that the employees of the petitioner-association who are covered by I.D. Act. pattern stand on a different footing and whatever benefits are available to them can only flow under the O.M. Even apart from that submission of his, the grievance of the petitioner is that even those benefits are being delayed and not being made available to the employees of the petitioner-association and that is why they are before us. We make it clear that the question about discrimination and applicability of Article 14 of the Constitution and all other contentions are not gone into by us at this stage and they are open

for consideration at a later stage, if need arises. In the meantime, the petitioner association and the other applicants concerned will move the B.I.F.R. for looking into the grievances of those applicants. It is obvious that as and when such applications are moved the B.I.F.R. will pass appropriate orders as early as possible after hearing the parties. Awaiting the result of these contemplated proceedings before B.I.F.R., these matters will stand adjourned for 12 weeks.

T.P. (c) 489 & 490 OF 1997:

5. Adjourned for twelve weeks and to be taken up with the SLP (c) No. 16732/97.