(2013) 03 DEL CK 0288

In the Delhi High Court

Case No : W.P. (C) No. 11411/2009

Rai Singh Dahiya APPELLANT

Vs

N.D.P.L. and Another RESPONDENT

Date of Decision : 08-03-2013

Acts Referred:

Citation : (2013) 03 DEL CK 0288

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Valmiki J Mehta, J.—The only limited issue in this writ petition is as to who is liable to make payment of the dues of the petitioner, who was an erstwhile employee of DVB, and whose services have thereafter been transferred to the DISCOM/respondent no. 1/North Delhi Power Ltd. Learned senior counsel for the respondent No. 1 argues that the liability towards pension and terminal benefits etc would be not of the DISCOM/respondent no. 1, but of the relevant Pension Trust i.e. respondent no. 3. This issue has already been considered by me against the respondent No. 1 herein in a batch of cases with lead case titled as Iqbal Chand Vs. Govt. of NCT of Delhi & Ors. in W.P. (C) No. 13834/2009 decided on 31.1.2013. Paras 5,6 and 11 of the said judgment read as under:-

5. On behalf of the DISCOMS and the transferee companies, two main arguments were urged for dismissal of the writ petitions as under:-

(i) The petitioners have approached this Court with considerable delay and laches inasmuch as the benefits of the circulars dated 23.7.1997 and 21.12.1999 are being claimed in the year 2009 onwards.

(ii) The second argument is that the liability for all monetary benefits payable to the employees of erstwhile DVB in the nature of gratuity and terminable benefits is not the liability of the DISCOMS or the transferee companies but of the concerned Pension Fund of 2002.

6. So far as the second argument that the liability is not of the DISCOMS or the transferee companies, and in fact of the relevant Pension Fund of 2002, I need not adjudicate upon this issue in the present petitions, inasmuch as, the Supreme Court in the judgment of North Delhi Power Limited (supra) has specifically in paras 60 and 61 held that the liability will be of the DISCOMS, and therefore, the liability in the present writ petitions have to be fastened on the DISCOMS or the transferee companies. However, I may add that if the DISCOMS feel that by virtue of the transfer scheme they are entitled to seek reimbursement of its claim from the relevant Pension Fund of 2002, then, if permissible in law, the DISCOMS and the relevant transferee company can take appropriate action for recovery of those amounts from the concerned Pension Fund towards seeking that such trust fund may directly make payment to the petitioners. This will however strictly be between the DISCOMS and the transferee companies on the one hand and the concerned Pension Fund of 2002 on the other, however, for that reason, there cannot be delay in clearing of any liability to the petitioners in this case. Accordingly, I reject the argument raised by the DISCOMS and the transferee companies with the aforesaid observations that against the DISCOMs and the transferee companies the petitioners are not entitled to the reliefs claimed in these writ petitions of terminal benefits pursuant to the circulars dated 23.7.1997 and 21.12.1999. For the sake of completion of narration I must refer to the fact that the counsel for the Pension Fund has referred before me a judgment of a learned Single Judge of this court in the case titled as Babu Ram Jain Vs. BSES Yamuna Power Ltd. in W.P. (C) 1597/1998 decided on 4.8.2011 and first para of this judgment directs deletion of Delhi Vidyut Board Employees Provident Terminal Fund 2002 and substitutes in its place BSES Yamuna Power Ltd. (BYPL) i.e. holding the liabilities for the terminal benefits etc to be of the DISCOMS/transferee companies and not of the Pension Fund. While disposing of the W.P. (C) 1597/1998, the learned Single Judge also in para 11 specifically directs the DISCOMS i.e. M/s. BYPL to pay to the petitioners all consequential benefits by way of arrears of salary and other retiral benefits.

11. In view of the aforesaid discussion, the writ petitions are allowed. Petitioners are directed to be paid the entire consequential monetary benefits on they being given the benefits of the circulars dated 23.7.1997 and 21.12.1999. The petitioners will also be entitled to interest at the rate of 6% per annum simple till the payment of the monetary benefits payable to them from the dates of filing of these petitions provided that such monetary benefits are paid on or before a period of three months from today. In case, there is delay in payment of the monetary benefits to the petitioners beyond three months, then the petitioners will be entitled to interest at the rate of 9% per annum simple for the period after three months.

It will be open to the DISCOMS and the transferee companies to approach the relevant Pension Fund so that the DISCOMS and the transferee companies know the dues which would be payable to the petitioners, however at the same time making it clear that this would not affect the directions with respect to the time of payment and the interest as stated above.

(Underlining added).

2. Adopting the aforesaid reasoning as given in Iqbal Chand''s (supra) case, it is held that the liability with respect to payment of dues of the petitioner as examined in the writ petitions, in the present case will be of the respondent No. 1 and which liability be cleared within a period of three months from today. Petitioner will be entitled to interest at 6% per annum simple during the pendency of the writ petition and till the monetary benefits as claimed in the writ petition are paid within a period of three months. If the payment is not made within three months, thereafter the petitioner will be entitled to interest at 9% per annum.

3. The observations which are made in second para of para 11 of the judgment in Iqbal Chand''s case will also apply so far as the respondent No. 1 in the present case is concerned. The writ petition is allowed and disposed of accordingly.