
(1995) 02 SC CK 0095

In the Supreme Court Of India

Case No : Civil Appeal No's. 3081-84 of 1995 (Arising out of SLPs (C) No's. 8427-30 of 1993) , 3085 of 1995 (Arising out of SLP (C) No. ... of 1993 (CC 26840 of 1994)) , 3086 of 1995 (Arising out of SLP (C) No. 13215 of 1993) , 3087 of 1995 (Arising out of SLP (

Rameshwar Dass and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 23-02-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 2

Citation : (1995) 2 LLJ 716 : (1995) 2 SCALE 79 : (1995) 3 SCC 285

Hon'ble Judges : A. M. Ahmadii, C.J;S. C. Sen, J;N. P. Singh, J

Bench : Full Bench

Final Decision : allowed

Judgement

N.P. Singh, J.—Leave granted.

2. These appeals have been filed on behalf of the appellants who had been employed as Drivers in Haryana Roadways. While in service, their eyesight became defective and subnormal. On that ground, the appellants were retired from the service of the Haryana Roadways. The Writ Petitions filed on their behalf were dismissed by the High Court.

3. The question whether a State Road Transport Corporation can retire the Bus Drivers on the ground of their defective or subnormal eyesight developed during the course of the employment has been examined by this Court in the care of Anand Bihari and others Vs. Rajasthan State Road Transport Corporation, Jaipur and another, , This Court held that such terminations of service were unjustified, inequitable and discriminatory, though not amounting to retrenchment within the meaning of Section 2(oo) of the Industrial Disputes Act. It was impressed by this Court that service conditions of the Bus Drivers must provide adequate safeguards because such Bus Drivers have developed defective eyesight or subnormal eyesight because of the occupational hazards. A scheme was directed

to be framed for providing alternative jobs along with retirement benefits and for payment of additional compensation proportionate to the length of service rendered by them, in case of non-availability of alternative jobs. It was brought to our notice that in view of the judgment in *Anand Bihari v. Rajasthan State Road Transport Corporation* (supra), the Transport Commissioner, State of Haryana has issued a communication dated 20.8.1992.

4. It appears that some of the appellants suffered serious injuries during the course of their employment which incapacitated them from performing their duties. Initially, they were transferred to lighter duties, but while they were working on those posts, they were retired from service on the ground that they were medically unfit. From the written submission filed on behalf of the respondents before the High Court, it appears that the terminal benefits have been paid to them, if the Judgment of this Court in *Anand Bihari, v. Rajasthan State Road Transport Corporation* (supra) is read in its proper context and spirit, then it has to be held that this Court impressed on the State Road Transport Corporation to first provide for alternative jobs to such Drivers who have become medically unfit for heavy vehicles. A direction for payment of additional compensation was given only when it is not possible at all in the existing circumstances to provide alternative jobs to such Drivers. It need not be pointed out that the authorities of the Corporation should not take recourse only to the payment of the additional compensation without first examining whether such Drivers could be put on alternative jobs.

5. Taking all facts and circumstances into consideration, we direct the respondents to apply their mind properly to the question whether the appellants who have suffered injuries and have become medically unfit can be put to some alternative jobs by way of rehabilitation. The question of payment for additional compensation will arise only when it is not possible to provide alternative jobs to them or some of them.

6. Accordingly, we allow the appeals to that limited extent. The question of providing alternative jobs to them shall be examined by the respondents preferably within four months from the date of production of the order. It need not be pointed out that question of providing alternative jobs shall be applicable only till the date of the superannuation of the respondents. In case, alternative jobs are provided to the appellants or any one of them, then if the additional compensation has been paid to them or any one of them, have to be refunded to the Haryana Roadways. In the facts and circumstances of the case, there shall be no order as to costs.