
(2009) 05 GAU CK 0032
In the Gauhati High Court
Case No : Writ Appeal No. 60 of 2009

Ranjit Kumar Bhuiyan and Others	Vs	APPELLANT
State of Assam and Others		RESPONDENT

Date of Decision : 15-05-2009

Acts Referred:

Citation : (2010) 4 GLR 808

Hon'ble Judges : Jasti Chelameswar, C.J;Hrishikesh Roy, J

Bench : Division Bench

Advocate : A.M. Mazumdar, A.M. Barbhuiya, J.P. Das, J.U. Laskar and J. Islam, for the Appellant; K.N. Choudhury, B. Goyal and B. Ahmed, for the Respondent

Final Decision : Dismissed

Judgement

Hrishikesh Roy, J.—Heard Mr. J.U.N.N. Laskar, learned Counsel for the appellants, Dr. B. Ahmed, learned Counsel represents the respondent Nos. 2 to 5.

2. The five appellants herein were fixed pay employees under the Assam State Minor Irrigation Development Corporation ("the Corporation"). As the Corporation was not found to be viable, a VR Scheme was introduced for the employees of the Corporation. By the notification dated 18.5.2005 issued by the Government, it was declared that only 200 regular employees of the Corporation were to be given the VRS benefits and 22 employees (including the appellants). who were working on fixed pay basis, would not be entitled to get the VRS benefits and would be entitled to only arrear pay, till the date of closure of the Corporation.

3. Being aggrieved by the denial of VRS benefits, the fixed pay employees in two separate group, filed WP(C) No. 7383/2005 and WPC No. 8748/2005 in the writ petitions the appellants challenged the notification dated 18.5.2005, whereby it was declared that they would not be entitled to get the VRS benefits. The petitioners sought further direction that after VRS benefits are granted to them, they be also absorbed as regular employees, under the Irrigation Department.

4. By the common judgment rendered on 29.11.2007, in both the writ petitions, the learned Single Judge partially quashed the notification dated 18.5.2005, insofar as it excluded the writ petitioners from getting the benefits of the VR Scheme. Consequential directions were also issued to determine the financial benefits payable under the VRS to the writ petitioners and the court directed that the VRS payments be given to the writ petitioners, within 70 days from the date of receipt of the copy of the judgment of the court.

5. The judgment dated 29.11.2007 in the writ petitions is assailed through this appeal by contending that, the further prayer for absorption of the writ petitioners, after VRS benefits are given to them should have been granted by the learned Single Judge.

6. On a specific query posed to the learned Counsel for the appellants, as to on what basis, such right of absorption in the Irrigation Department is claimed, nothing could be pointed out by Mr. Laskar and he submits that some of the employees of the Corporation, instead of being granted VRS, have been considered for absorption in the Irrigation Department and, therefore, the writ petitioners also had a right to claim similar absorption.

7. In this case, we find that writ petitions were filed seeking VRS benefits for the fixed pay employees of the Corporations and this prayer of the appellants have been granted by the court, by interfering partially with the impugned notification dated 18.5.2005. When the appellants seek VRS benefits which has been granted by the impugned judgment and order, it is difficult to hold that they have a further right to get absorbed in the Irrigation Department, particularly when, they are agreeable to receive the VRS benefits.

A section of the regular employees of the Corporation were considered for absorption in the Irrigation Department and they formed a separate class and are not at par with the fixed pay employee like the appellants. Therefore, no similar rights can be claimed by the appellants, who have not only claimed VRS benefits but have also filed writ petitions, to challenge the notification dated 18.5.2005, whereby such VRS benefits have been denied to them.

8. The former employees of the Corporation who have claimed VRS and those who have not sought VRS, form distinct groups and absorption of some employees who have not got VRS cannot in our view, give rise to a claim for absorption for those, who claimed VRS. These 2 class of employees form distinct groups and can't claim similar reliefs, merely because both groups are former employees of the Corporation.

9. In the above circumstances, we are of the opinion that the appellants do not have an enforceable legal right to claim absorption in the Irrigation Department after closure of the Corporation, where they worked as fixed pay employees, after they have opted for VRS benefits.

10. We, therefore, find no error in the impugned order justifying our

interference. Accordingly, this appeal is dismissed, without any further order on cost.