
(2014) 04 CAL CK 0031
In the Calcutta High Court
Case No : W.P.T.C. No. 756 of 2007

Samir Kumar Majumder

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 20-04-2014

Acts Referred:

Citation : (2014) 4 CHN 40

Hon'ble Judges : Tapash Mookherjee, J; Nishita Mhatre, J

Bench : Division Bench

Advocate : P.K. Munshi, Advocates for the Appellant; Sudipta Panda, Advocates for the Respondent

Judgement

Nishita Mhatre, J.—The petitioners have challenged the judgment and order of the Central Administrative Tribunal, Calcutta Bench, in O.A. No. 317 of 2003. The Tribunal had dismissed the Original Application and held that the petitioners were not entitled to be reinstated in service. The petitioners were all employed by the Geological Survey of India (hereinafter referred to "GSI") after the organisation started geological operations in Bhutan. However, the petitioners' appointment was temporary with the condition that their services would be terminated as soon as a Bhutanese candidate was available to perform the same work. The appointment order specifically mentioned that they would not be treated as employees of the GSI, but would be paid salary and allowances as admissible to the "local recruits" of the Royal Government of Bhutan. The appointment order also indicated that the petitioners would have no claim for counting their seniority or retention in service with the GSI after the Bhutan scheme was over; they would not be treated as regular cadre of the GSI.

2. The operations in Bhutan were closed consequent upon a policy decision of the Government of India and Government of Bhutan. The petitioners found that their services would be terminated and therefore, filed O.A. No. 1457 of 1999 seeking pensionary benefits at par with other employees of the GSI in accordance with the Central Civil service (Pension) Rules, 1972. They also claimed consequential

benefits like leave and other allowances.

3. That Original Application was dismissed by the Tribunal on 11th October, 2002. The Tribunal observed that though the petitioners did not have any legal claim to the benefits sought, it was necessary for the Government to take a "humanistic" approach considering the long period of service rendered by the petitioners in a foreign land.

4. The respondents, paying heed to the decision of the Tribunal, fixed the compensation package which was to be paid to the petitioners, the least amount of which was Rs. 3,00,000/- (Rupees three lacs).

5. Some other employees of the Bhutan Unit at Samtse filed Original Applications being O.A. 1031 of 1999 and O.A. 972 of 2002. These employees claimed regularisation in service under the GSI after the closure of the Bhutan Unit where they were working on a contingent basis. The application was disposed of on 12th November, 2002 by consent whereby the respondents agreed to regularise the service of those employees.

6. A writ petition was filed by some employees in this Court being Writ Petition No. 1337 of 2002. This Court noticed that the petitioners did not challenge the decision of the Tribunal in O.A. 1457 of 1999 in which they had sought relief against the notice terminating their services, regularisation in service and pensionary and consequential benefits. This Court held that since the issue of regularisation was not decided by the Tribunal, the employees could not approach the High Court directly without ventilating their grievances before the Tribunal initially.

7. The petitioners then approached the Tribunal by filing O.A. 317 of 2003. The impugned decision has been passed in that application. The Tribunal has observed that there was no dispute that the petitioners had approached the Tribunal at an earlier stage for retiral benefits when a policy decision was taken to close the Bhutan Unit. On considering the appointment orders, the Tribunal was of the view that as it had earlier held that the petitioners were not entitled to pensionary benefits like regular employees of the GSI, the question of regularising them in service did not arise. The Tribunal also found that the petitioners had based their claim on the orders passed by the Tribunal in an Application filed by a set of "contingent employees" recruited in the same unit. The Tribunal held that the service condition of those employees was different from the petitioners herein who had been paid a compensation package by the Government. The Tribunal observed that since the applicants were "locally recruited" employees and not "contingent employees", the rule of regularisation could not be made applicable in their case.

8. Aggrieved by this order of the Tribunal the petitioners have filed the present petition.

9. In our opinion, once it has been decided that the petitioners were not entitled

to the pensionary benefits at par with the GSI in accordance with the Civil Service (Pension) Rules, they would not be entitled to any relief in the Original Application filed by them on the second occasion. Unfortunately, the petitioners have not produced the pleadings filed by them either in O.A. 1457 of 1999 or the present O.A. No. 317 of 2003 before us. However, from the order of the Tribunal it is evident that the petitioners had also challenged the notice of termination of service issued to them in O.A. 1457 of 1999. In the present application the petitioners have again sought the quashing of the orders terminating their service and for consequential benefits including regularisation and pensionary benefits. The petitioners having been terminated from service, the question of regularising them does not arise unless they are entitled to be reinstated in service. They did not challenge the decision of the Tribunal in O.A. 1457 of 1999 by which it was held that they were not entitled to any relief. Instead, the Government was asked to consider the plight of the petitioners and to pay them a substantial amount. The petitioners, therefore, cannot reopen the issue of the termination of their service.

10. As regards the pensionary benefits, the petitioners have already been paid a package and the least amount paid to them was Rs. 3,00,000/- (Rupees three lacs). In these circumstances, in our view the petitioners are not entitled to any relief. The Tribunal has not committed any error, much less an error of jurisdiction apparent on the face of the record. There is no perversity in the order of the Tribunal which requires us to interfere of the same. Hence the petition is dismissed. No costs.

Tapash Mookherjee, J.

I agree.