(2023) 11 CAT CK 0008

In the Central Administrative Tribunal

Case No : Original Application No. 245 Of 2016

Satish Chand & Ors — APPELLANT

Vs

Union Of India, Through General Manager, North Central Railway, Subedarganj, Allahabad & Ors — RESPONDENT

Date of Decision : 06-11-2023

Acts Referred:
Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 11 CAT CK 0008

Hon'ble Judges : Dr. Sanjiv Kumar, Member (A)

Bench : Single Bench

Advocate : Vinod Kumar, Rajnikant Rai

Final Decision : Allowed

Judgement

Dr. Sanjiv Kumar, Member (A)

1. This OA, under Section 19 of the AT Act, 1985 is filed claiming the relief to issue an order to quash the impugned order dated 20.01.2016 passed by respondent No. 2 and to direct the respondents to extend the benefits of 55% elements in retiral benefits/pension at the rate of last 10 months + 55% of this pay/2 which are being paid to the other similarly situated loco inspectors with all consequential benefits since the date of their retirement and to direct the respondents to pay the market rate of interest upon the delayed payment of arrears of actual retiral benefits with adding 55% elements thereupon, and any other order deemed fit and proper and to award cost.

2. The facts of this case is exactly similar to the case in the OA No. 347 of 2016 where order of the coordinate bench has been passed on 21.04.2023 and also it is similar to the case of Kishan Lall Sharma and others which went upto the Hon'ble Supreme Court and in Civil Appeal No. 3110/2016 – Union of India and Anr vs. Kishan Lall Sharma & Ors alongwith other Civil Appeals. The Civil Appeal and the Special Leave Petition were dismissed. Thus, the original order stood

confirmed which were assailed in the said Civil Appeal.

3. The fact of this case is that the applicants are retired Railway Loco Inspectors, who were working on the post of Indian Railway Train Driver and on merit were promoted to the post of Loco Inspector from where they have retired after attaining the age of superannuation. The applicants have made several representations before the respondents' authorities, praying therein to extend them also the benefit of 55% element at par with Loco Drivers as well as other Loco Inspectors, but with no response. Vide order dated 20.01.2016 passed by Respondent No. 2, denied the said benefit to the applicants. Hence, they have approached this Tribunal to set aside the impugned order dated 20.01.2016.

4. Per-contra learned counsel for the respondents have filed counter affidavit stating therein that the order dated 20.01.2016 was passed by the competent authority in pursuance to the order dated 09.10.2015 of this Tribunal in OA No. 1109/2015 filed by the Satish Chandra and 10 others vs. Union of India and others to which the representation of the applicant dated 18.02.2015 was decided on the basis of relevant instructions and codal provisions as contained in the Indian Railway Establishment Code Vol. II dealing with the running allowance which is ordinarily granted to the running staff for the performance of the duty directly connected with the charge of moving trains including kilometre allowance. Since the case of the applicants does not cover under the instruction and entitlement and as such they have no legal enforceable right to claim any computation of pensionary benefit after adding 55% of the pay elements. The respondents further say that Hon'ble Supreme Court in Special Leave to Appeal No. 4758 of 2016 – Union of India and others vs. Kishan Lall Sharma which was converted into Civil Appeal No. 3110 of 2016 was pleased to pass an order dated 18.03.2016 while condoning the delay in granting the leave and stayed the operation of the impugned judgment arising out of order dated 09.10.2015 in Civil Misc. Writ Petition No. 2937 of 2007 and Review Petition No. 377 of 2015 passed by the Hon'ble Delhi High Court and citing the said case they want that till the said case is disposed of by the Hon'ble Supreme Court no further benefit can be granted to the present applicants, so no relief can be granted to the applicants and no monetary benefit of 55% of pay element in the retiral benefit from the date of their retirement can be given to them.

5. The respondents have further filed supplementary affidavit in which the reiterated the facts as stated in the counter affidavit. They cite that in similar subject matter the Railway administration had filed cases in various Hon'ble High Court and Hon'ble Supreme Court. Hence, till the final conclusion of the same, no relief can be granted to the applicants.

6. The case came up for final hearing on 31.10.2023. Shri Vinod Kumar, learned counsel for the applicant and Shri Rajni Kant Rai, learned counsel for the respondents were present and heard. I have gone through the record and have carefully examined the rival contentions.

7. At the time of arguments the learned counsel for the applicant filed synopsis of the case and alongwith the same he has filed final order in the Civil Appeal No. 3110 of 2016 – Union of India and Anr vs. Kishan Lall Sharma and ors, wherein order was passed on 22.02.2023 in the following manner:-

“We are not inclined to entertain these appeals and the special leave petition, which are, accordingly dismissed.”

8. With the dismissal of this Civil Appeal No. 3110 of 2016, which were mainly contented in the counter affidavit as pending case in the Hon’ble Supreme Court, the subject matter which are identical comes to the finality in the Hon’ble Apex Court. To this argument the learned counsel for the respondents has no further counter. The existence of such order dated 22.02.2023 is not disputed. Hence, considering this issue settled and as the coordinate bench in OA No. 347 of 2016 have pronounced an order dated 21.04.2023 where matter is entirely identical, hence, I have no other choice but to agree with the coordinate bench and go as per the final decision of the Hon’ble Apex Court in the case of Union of India Anr vs. Kishan Lall Sharma and Ors in Civil Appeal No. 3110 of 2016.

9. Since, the similarly situated employees have been granted the benefit of adding the 55% element in the retiral benefits/pension at the rate of last 10 months + 55% of the pay and this Tribunal in so many cases allowed the OA, which have also been affirmed by the Hon’ble High Court as well as Hon’ble Apex Court, I have no occasions to defer the view taken by the other benches in the similar case and accordingly, I pass following orders:-

“The OA is allowed. Impugned order dated 20.01.2016 is quashed. Respondents are directed to extend the benefit of 55% elements in retiral benefits/pension in the running allowance which would enhance pension and other retiral dues, which shall be paid to the applicant from the date of retirement of the applicant’s husband. This exercise shall be carried out within a period of three months from the date of receipt of certified copy of this order. All associated MAs stand disposed of. No order as to costs.”