(2013) 07 DEL CK 0270

In the Delhi High Court

Case No : Writ Petition (C) 7979 of 2011

Sh. Rajiv Lochan APPELLANT

Vs

BSES Rajdhani Power Limited and Another RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0270

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : N.S. Dalal and Mr. H.L. Verma, for the Appellant; Sandeep Sethi with Mr. Anupam Varma, Nikhil Sharma, Advocates for respondent No. 1, Mr. Sunil Kumar Jha, H.S. Sachdeva, Advocates for respondent No. 2 and Mr. Sumeet Pushkarna, Advocate for respondent No. 3 with Mr. P. Narayan, Manager of Pension Trust., for the Respondent

Judgement

Valmiki J Mehta, J.—The petitioner sought voluntary retirement from respondent No. 1/BSES Rajdhani Power Limited. Petitioner was the employee of the erstwhile Delhi Vidyut Board (DVB) and on unbundling of DVB, petitioner''s services were taken over by the respondent No. 1. It is not disputed before me that the petitioner was entitled to and would be given voluntary retirement in terms of Rule 48(A) of the CCS (Pension) Rules, 1972, however, the issue is which entity will be liable to make payment of pension to the petitioner. I have had an occasion to consider this issue in a series of cases being Iqbal Chand vs. Govt. of NCT of Delhi and Ors. (W.P. (C) 13834/2009 decided on 31.01.2013), Tulsi Ram Arya vs. Chairman D.V.B. & Ors. (W.P. (C) 618/2001 decided on 31.01.2013) and Smt. Pawan Vohra vs. The Chairman, DVB Pension Trust and Anr. (W.P. (C) 1680/2012 decided on 17.05.2013). I have held that whatever be the liability towards terminal benefits of an employee, under whatever head, the said liability is necessarily of the private DISCOMS and the private DISCOMS cannot refuse to discharge its obligation. I am bound by my aforesaid judgments and, therefore, adopting the ratio as laid down in the aforesaid judgments and particularly the cases of Rosy Jain Vs. GNCT of Delhi and Ors. (W.P. (C) 4532/2010 decided on

09.07.2013, Naresh Kumar vs. BSES Rajdhani Power Ltd. (WP (C) No. 957/2011, decided on 10.07.2013), the writ petition is allowed, and the respondent No. 1 is directed to make payments of all terminal benefits to the petitioner taking the petitioner as having retired on 18.2.2009. Petitioner will also be entitled to interest from the respondent No. 1 @ 9% per annum simple from 18.2.2009 till a period of two months from today. In case the entire amount of arrears will not be paid within two months, thereafter, petitioner will be entitled to interest @ 12% per annum simple.

2. I may note that learned counsel appearing for the petitioner again sought to argue that the private DISCOMS are not liable because the judgment of a learned Single Judge of this Court in Babu Ram Jain & Ors. vs. BSES Yamuna Power Ltd. dated 04.08.2011 is stayed by the Hon''ble Supreme Court in an SLP. However, there is no stay of operation of the judgments which are passed by this Court and in any case, I am informed that the order is only an interim order which is yet to be confirmed as SLP allowed for that matter by setting aside judgment in the case of Babu Ram Jain (supra).

Learned counsel for the petitioner to the contrary contends that his case is not on the same footing as is the case before the Hon''ble Supreme Court.

The writ petition is accordingly allowed and disposed of with the aforesaid observations, leaving the parties to bear their own costs. Both the parties will be bound by the ratio of the judgments in the cases of Iqbal Chand vs. Govt. of NCT of Delhi and Ors. (W.P. (C) 13834/2009 decided on 31.01.2013) and Rosy Jain Vs. GNCT of Delhi and Ors. (W.P. (C) No. 4532/2010 decided on 09.07.2013).