

(2010) 05 DEL CK 0178

In the Delhi High Court

Case No : Writ Petition (C) No. 3527 of 2010

Smt. Shakuntala

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

Date of Decision : 21-05-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 05 DEL CK 0178

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : S.C. Sagar and Mr. Chiranjiv Kumar, for the Appellant; Avnish Ahlawat, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner, widow of deceased employee of the respondent has challenged the order dated 28th October, 2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in T.A.No.1369 of 2009, titled as "Smt. Shakuntala v. Delhi Transport Corporation", dismissing her petition seeking release of retiral benefits/pension from the day of the demise of her husband along with interest @ 18% per annum.

2. The husband of the petitioner was a mechanic and had died in 1984. The respondent had introduced a pension Scheme on 27th November, 1992. Retiral dues as per prevalent rules i.e. EPF, Gratuity etc. had been paid to the legal heir of deceased employee and employment was also given to his elder son on compassionate ground.

3. The petitioner, widow of late Kishori Lal, however, filed a writ petition seeking pensionary benefit which was transferred to the Central Administrative Tribunal which considered the pleas and contentions of the parties and dismissed the petition of the petitioner seeking grant of pensionary benefits.

4. Dismissing the petition, the Tribunal has noted that under the Scheme of 27th

November, 1992, the retirees were required to exercise their option within thirty days. The period for exercising the option had also been extended twice till 1993. The respondent had also contended that since no option was exercised by the petitioner, the benefit of the Pension Scheme could not be extended to her and relied upon the decision of the Supreme Court in D.T.C. Retired Employees Association and Others Vs. Delhi Transport and Others etc. etc., .

5. The Tribunal has also held that the disputes raised by the petitioner are no more res integra in view of the decision of the Supreme Court in "DTC Retired Employees Association & other" (Supra) as also the decision of the Tribunal in "Smt. Tarawati v. Delhi Transport Corporation" (TA No.551 of 2009) decided on 12th October, 2009. The Tribunal also rejected the contentions of the petitioner that the decision in the case of "DTC Retired Employees Association & others" (Supra) did not deal with the cases of those employees who had died before introduction of the Pension Scheme.

6. Learned counsel for the petitioner has very emphatically contended that the decision of "DTC Retired Employees Association & others" (Supra) did not deal with the Clause 9 of the Pension Scheme dated 27th November, 1992.

7. From perusal of the decision of the Supreme Court, it is apparent that it deals with the ramification of Clause 9 also. It cannot be disputed by the learned counsel for the petitioner that the petitioner had already received benefit admissible to her husband at the time of his death. The Claim of the pension now raised on behalf of the petitioner is belated as has also been held by the Tribunal. In the circumstances, this Court does not find any illegality in the order of the Tribunal dismissing the claim of the petitioner who has already got all the retiral dues and whose son also was granted compassionate appointment.

8. In the totality of the facts and circumstances, there is no such illegality, irregularity and perversity in the order of the Tribunal dated 28th October, 2009 which would require any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

9. The writ petition in the facts and circumstances of the case, is without any merit, and it is therefore, dismissed.