

(2010) 04 P&H CK 0075

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Union of India (UOI) and Others

APPELLANT

Vs

Central Administrative Tribunal
and Others

RESPONDENT

Date of Decision: April 8, 2010

Acts Referred:

- Constitution of India, 1950 - Article 14, 226

Hon'ble Judges: M.M. Kumar, J; Jitendra Chauhan, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

M.M. Kumar, J.

The Union of India has approached this Court through the instant petition filed under Article 226 of the Constitution with a prayer for quashing orders dated 9.2.2009 and 17.7.2001 (P.16) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh.

2. Respondent Nos. 3 to 30 are the employees of National Oilseeds and Vegetable Oils Development Board (for brevity "the Board") respondent No. 3. Respondent No. 2 is the widow of late Shri R.K.Dhar, Assistant Direct (S) of the "Board". On the death of her husband she represented the Board for grant of pension and other retiral benefits to her but the same were rejected by the Board. In support of her claim she cited the case of one Mrs. Saraswati Devi widow of late Shri Umesh Jha who had died in harness. She has claimed parity with her in as much as has been allowed pensionary benefits by the Board vide order dated 12.3.1996 and she was also given family pension @ Rs. 375/-p.m. The widow-respondent No. 2 served a legal notice upon the petitioners 5.10.2001 (P.17).

3. The stand taken of the petitioners-UOI before the Tribunal was that the Government of India had taken a decision to shift from non contributory system of

pension to a contributory system of pension. One of the petitioner is Board is an autonomous body. It has been advised by Govt. of India to either work out annuity scheme through Life Insurance Corporation based on voluntary contributions by the employees or without any contribution from the Government or the Ministry of Labour for the Provident Fund subscribers as the cost of introduction of pension scheme is much higher than CPF scheme which entails one time payment whereas the pension is long term commitment on the part of the Government. It was also pleaded that special provision for transfer of the employees as per NOVOD Act 1983 is applicable only to the officers and other employees holding office as such in the Directorate of Oilseeds Development, a subordinate office of Ministry of Agriculture at Hyderabad. The Tribunal after hearing the rival contention of the parties allowed the Original Application. The concluding portion of the order reads thus:

...Since the Board has not made any separate regulation in this regard so far and the provision of NOVOD Board Act. 1988 Regulation 13 as stated above makes it very clear that till such time separate regulations are made for its employees of the Board are entitled to be paid leave, allowances, pension and retiral benefits etc. in accordance with the rules applicable to the employees of the Central Govt. of similar rank. Therefore, the fact that some other similar institutions are following their own policy, does not make any difference with regard to the entitlements of the employees of the NOVOD Board. The fact that NOVOD Board Act authorises the Board to frame its alternative pension scheme/ contributory pension scheme does not absolve them of their responsibility of payment of pension to the employees or their dependents (family pension) as per Govt. of India CCS (Pension) Rules, 1972 as the Board was specifically authorized as an autonomous body to shift from non contributory system of pension to contributory system of pension and do not need approval from the Government to do so. Respondents stand with regard to payment of pension and pensionary benefits to the widow of Umesh Jha as exceptional case is not justifiable and amounts to discrimination in violation of Article 14 of Constitution of India of such benefit is not granted to other similarly situated persons. In the absence of such scheme in existence in the Board, we are of the considered opinion that the case of the applicant must be considered by the respondents Board for grant of retiral benefits in accordance with the Rules applicable to the officers and employees of the similar rank of Central Govt. within a period of four months from the date of receipt of copy of this order....

4. We have heard the learned Counsel for the parties at some length. The controversy in this case is dependent on the application of Regulation 13 of the National Oilseeds and Vegetable Oils Development Board Regulation 1988 which deals with the service condition of its employees. According to the Regulation till separate provision is made by the Board, the rules and orders applicable to the officers and employees of the Central Government working in the corresponding grade or status would apply in matters of pay, allowances, pension, retirement benefits, other conditions of service and other facilities and concessions such as

advances of pay, advances for purchase of conveyances, construction of houses and the like in respect of all employees of the Board.

5. It is conceded as a fact that no separate regulations have been framed by the Board and Civil Service (Pension) Rules, 1972 are applicable to the private respondents 2 to 30. The Tribunal in para 10 of its order has recorded a categorical finding to that effect that no separate regulations have been framed by the Board. Merely because the National Oilseeds and Vegetable Oil Development Board Act makes a provision for framing of separate rules and regulations or the rules of 1984 contemplates that Board's Pension Fund would not ipso facto lead to a conclusion that separate regulations have been framed and Central Civil Service (Pension) Rules, 1972 would cease to have any application. Moreover, the benefit has already been granted under the 1972 Rules to one such employee.

6. Having heard the learned Counsel at a considerable length we are of the view that no case is made out warranting interference of this Court in the order of the Tribunal. Learned Counsel for the petitioner has not been able to point out any rule or regulation which might have been framed for governing the service conditions, pay, pension and allowances etc in respect of the employees of the Board. We repeatedly asked the learned Counsel the aforesaid question but no satisfactory answer has been given by him. The writ petition does not merit admission and the same is accordingly dismissed.