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(2003) 1 GLR 612 : (2003) 1 GLT 17

Gauhati High Court

Case No: Writ Petition (C) No. 2348 of 2002

Oil India Executive Employees" Association		APPELLANT
	Vs	
Union of India (UOI) and Others		RESPONDENT

Date of Decision: Sept. 5, 2002

Acts Referred:
Constitution of India, 1950 â€" Article 226

Citation: (2003) 1 GLR 612 : (2003) 1 GLT 17

Hon'ble Judges: B. Biswas, J

Bench: Single Bench

Advocate: B.P. Katki, A.J. Das and A.N. Choudhury, for the Appellant; B. Sarma, Addl. CGSC for the respondent Nos. 1 and 2 and S.N. Sharma, for the respondent No. 3, for the Respondent

Judgement

B. Biswas, J.
Heard Mr. B.P. Kataki, the learned senior counsel for the petitioners Association; Mr. B. Sarma, the learned Addl. CGSC

for the respondent Nos. 1 and 2 and Mr. S.M. Sarma, the learned senior counsel for the respondent No. 3.

2. The petitioner Association has filed this petition under Article 226 of the Constitution of India for appropriate directions commanding the

respondent authorities, particularly the Oil India Ltd. to implement the Oil India Employees" Pension Scheme in terms of the deeming exemption

provision available in Para 39 of the Employees Pension Scheme, 1995 and further to take actions to grant pensionary benefits to the employees

covered by the same scheme with immediate effect.

3. The respondent Nos. 1 and 2 have filed an affidavit wherein it is admitted that the Regional Provident Fund Commissioner has recommended

the case of the writ petitioner for exemption as provided in para 39 of the Employees Pension Scheme, 1995. In the affidavit filed by the

respondent No. 3, it is submitted that the management is constantly in touch with the Ministry of Labour to get the exemption issued. The final

scheme, according to the respondent No. 3, was submitted to the authority concerned on 25.1.2000 and the Regional Provided Fund

Commissioner recommended that exemption as sought be granted. It also appears from the statement in the said para that the Central Provident

Fund Commissioner also recommended the proposal for exemption.

4. Mr. Kataki, the learned senior counsel for the petitioner Association submits that the exemption as required under para 39 of the Scheme of

1995 may be deemed to have been granted as per deeming provision in para 39 of the Pension Scheme, 1995. There is no dispute with regard to

the interpretation of the provisions of para 39. The learned counsel for the respondents is also of the opinion that the provisions in para 39 clearly

provide that if an application for exemption presented under para 39 is not disposed of within a period of six months from the date of its receipt or

such further time as may be extended for reasons recorded in writing, the exemption applied for shall be deemed to have been granted.

5. It appears that the proposal for grant of exemption under para 9 of the Pension Scheme of 1995 was initially submitted by the respondent No. 3

by letter dated 25.1.2000. Thereafter, the Central Government made some queries vide letter dated 5.7.2001 (Annexure-VII to the affidavit in

opposition filed by the respondent Nos. 1 and 2). It therefore appears that the proposal in complete form as is required under the provisions of

para 35 of the Pension Scheme of 1995 was sent to the Central Government in the month of July, 2001. The Central Government, under the

provisions contained therein, is required to dispose of the same within a period of six months from the date of its receipt unless the time is extended

for reasons to be recorded in writing. The learned Addl. CGSC does not dispute that it was received by the Central Government as averred. The

Central Government has also not extended the time reasons recorded in writing. It is, therefore, clear that the deeming provisions contained in para

39 came into operation and the respondent No. 3 stood exempted from the operation of the Employees Pension Scheme, 1995. Therefore, there

appears no bar on the part of the respondent No. 3 to implement the in-house Pension Scheme, namely, Oil India Employees Pension Fund

Scheme formulated by them in the interest of the employees of the establishment subject to completion of all formalities. All employees, including

retired and dead will become beneficiaries in accordance with the provisions of the scheme and the benefits accrued thereunder should be

disbursed without loss of time.

6. The petition accordingly stands disposed of. No costs.