

Narendra Kumar and Others Vs. Union of India and Others

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Court : Delhi

Decided On : Jul-31-2013

Judge : Gita Mittal

Appellant : Narendra Kumar and Others

Respondent : Union of India and Others

Advocate for Def. : Mr. Satya Saharawat, Mr. Ankur Chhibber

Advocate for Pet/Ap. : Mr. Amit Kumar

Judgement :

\$~ 16 * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C)
No.3820/2013 Date of decision:

31. t July, 2013 % NARENDRA KUMAR & OTHERS Petitioners Through : Mr. Amit Kumar, Adv. versus UNION OF INDIA & OTHERS Respondents Through : Mr. Satya Saharawat, Adv. for Mr. Ankur Chhibber, Adv. CORAM: HONBLE MS. JUSTICE GITA MITTAL HON'BLE MS. JUSTICE DEEPA SHARMA GITA MITTAL, J.

(Oral) 1. The petitioners, who are the promotee officers, are working either as Overseers or as Superintendents with the Border Road Organization. This petition has been filed by the petitioners praying to pay salary in same pay scale/pay band with grade pay as was paid to Ghan Shyam Vishwakarma pursuant to the decision

passed by the Gauhati High Court (Aizawl Bench) in W.P.(C)No.51/2009.

2. The Border Road Organization implemented the recommendations of the 5th Central Pay Commission with effect from January 1, 1996 and started paying a higher salary to WP(C) No.3820/2013 page 1 of 3 Overseers and Superintendents BR Grade-II who were direct recruits and possessed either a diploma or a degree in the applicable field i.e. Electrical or Mechanical; depending upon the stream. This was denied to promotee Officers who joined as Masons, Carpenters etc. and earned promotion. The reason for denying the parity in pay-scale was by drawing a distinction between Officers holding a diploma or a degree and those not holding a diploma or a degree. This action was held to be discriminatory and was quashed. Mandamus was issued that same scale of pay benefit, as recommended by the Pay Commissions, be accorded to for the reason the Pay Commissions did not draw any such distinction while making their recommendations.

3. The decision of the Aizawl Bench of the Gauhati High Court was unsuccessfully challenged before the Supreme Court. Qua Ghan Shyam Vishwakarma, the same has been implemented as also many more who filed similar petitions.

4. Despite repeated directions, the respondents are granting benefits only to such persons who approached the court which is legally impermissible.

5. The decision in the instant case related to application of policy decision. This court in several orders including the order dated 17th December, 2012 passed in WP(C)No.5040/2012, Prabhdiyal Singh & Ors. v. Union of India & Ors. has specifically directed that the decision has to be implemented in rem.

6. We accordingly allow this writ petition directing that the WP(C) No.3820/2013 page 2 of 3 petitioners working either as Overseer or as a Superintendent with the Border Road Organization be accorded the benefit of recommendations made by the 5th and 6th Central Pay Commissions as was accorded to, to Ghan Shyam Vishwakarma.

7. Arrears would be disbursed within a period of 12 weeks from today.

8. No costs. (GITA MITTAL) JUDGE (DEEPA SHARMA) JUDGE JULY 31 2013
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