

Smt. Prem Devi and Another

Vs

Delhi Administration and Others

Writ Petition (Civil) Nos. 1055 and 1088 of 1988

(G. L. Oza, K. N. Saikia JJ)

17.04.1989

JUDGMENT

1. After hearing the learned counsel for parties it clearly emerges that the two petitioners and one Smt. Rekha Mehta who had filed a petition earlier were all the employees of one institution known as Nari Niketan. This institution was fully funded by Delhi Administration and was controlled by Board managing the affairs. It is also not in dispute that all the three persons mentioned above, the two petitioners and Smt. Rekha Mehta, are identically situated in respect of their conditions of service.

2. On December 1, 1979 the Board was superseded and the institution was taken over by the Delhi Administration and the staff of the this institution Nari Niketan was absorbed in the Delhi Administration vide Order No. 4-2(3)-79-DSW-ESTT dated February 27, 1980. By this order about 20 officials were absorbed in time scale and pay as were being drawn by them prior to December 1, 1979. These facts are not disputed. It is also not in dispute that Smt. Rekha Mehta when after retirement was not given pensionary benefits she filed a petition in this Court No. C-539 of 1987. This Court passed the order in the case of Smt. Rekha Mehta as :

"Rule issued and made absolute. Arguments heard. The respondents are directed to calculate the pension and other retiral benefits of the petitioner taking into account her antecedent of service before absorption and pay the same as early as possible and in any event not later than three months from today. The respondent will pay costs quantified at Rs. 2000 to the petitioner."

3. Thereafter these two petitioners have again filed writ petitions alleging that they have retired and therefore they are entitled to the same pensionary benefits which were given to Smt. Rekha Mehta as they belong to the services of Nari Niketan institution, subsequently absorbed in the services of Delhi Administration. It is also not in dispute that these petitioners repeatedly approached the respondent. Delhi Administration and made representations for getting the pensionary benefits as were granted to Smt. Rekha Mehta after the orders were passed by this Hon'ble Court. Unfortunately in spite of all this nothing was done consequently these two writ petitions were filed before this Court. Learned counsel appearing for the Delhi Administration attempted to contend that the decision in the case of Smt. Rekha Mehta will not be applicable but realising the difficulty he only read through the affidavit filed in return wherein a long story as to how the papers were tossed from department to department and ultimately no decision was taken. There is also reference to the Government of India, Ministry of Personnel and Training, Public Grievances and Pensions and it is stated that in the opinion of these departments the judgment of this Court in Smt. Rekha Mehta was a judgment in the particular case only and these petitioners are not entitled to pensionary benefits. It

is unfortunate that such a simple affair where the services in an institution under the control of the Delhi Administration and fully funded by the Delhi Administration when taken over and the staff absorbed in the Delhi Administration it could be said that they will not be entitled to ordinary facilities like the pensionary benefits when available to other staff of the Delhi Administration and apart from it when one case of an employee of the institution whose services were absorbed in the Delhi Administration has been decided by this Court still the counter-affidavit indicates the working of the departmental officials who chose to opine that it is not binding on the government. That was a case only of a particular employee in spite of the fact that Union of India is alleged (sic arrayed) as a party. It has chosen not to keep a counsel present at the time of hearing of these petitions. All these circumstances go to indicate as to how the matters are handled by our administration resulting in unnecessary litigation and heavy expenditure on the public exchequer. Apart from the expenditure of litigation the costs that have to be paid in such litigation.

4. The facts as are not in dispute the case of one of the employees having been decided by this Court it was expected that without resorting to any of the methods the other employees identically placed would have been given the same benefit, which would have avoided not only unnecessary litigation but also of the waste of time and the movement of files and papers which only waste public time. Learned counsel only read out the counter and stated that it was thought that the case of Smt. Rekha Mehta will not be applicable to the case of the present petitioners although learned counsel had no argument in law to support such a contention. The petitions are therefore allowed and it is directed that the petitioners shall be paid their pensionary benefits within 3 months from today. It is further directed that the petitioner shall be entitled to costs of Rs. 2500 in each case. It is also directed that the matter will be considered at the appropriate level to see that such things do not happen in future so that unnecessary litigation is avoided and costs to the public exchequer is saved.

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