SITA RAM BANSAL AND ORS. ETC. ETC. A

v.

STATE OF PUNJAB AND ORS. ETC. ETC.

NOVEMBER 27, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.] B

Constitution of India, 1950 : Article 14.

Equality—Prescription of cut off date—Validity of—Pension scheme introduced w.e.f. April 1, 1990—Scheme applicable to All India Gazetted C
Officers and Punjab Civil Services Officers working in the Municipalities i.e. provincial service—Subsequently another Government order issued extending the benefits of pension scheme to members of non-provincialised service—Petitioners who are non-provincialised employees filed a writ seeking benefits of pension scheme—Contention that prescription of cut-off-date was arbitrary—Dismissal of writ petition by High Court—Appeal—Held, The date D
of April 1, 1990 bears rationality, namely, the scheme for the first time was introduced on that date—All those employees who retired prior to that date were treated as a class and those employees either in service or retiring on and after that date have been treated as a separate class and the scheme was extended—Thus there is no illegality in introducing the cut-off date; nor does E
it violate Article 14.

Union of India v. *Shri Deoki Nandan Agarwal,* **[1992] 1 SCC 323;** *Shri R.L. Marwah* **v.** *Union of India,* **[1987] 3 SCR 928 and** *Shri M.C. Dhingra* **v.** *Union of India & Ors.,* **JT (1996) 2 SC 463, held inapplicable.**

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) Nos. 22517-20 of 1996.

From the Judgment and Order dated 10.5.96 of the Punjab & Haryana High Court in C.W.P. No. 14764, 15213/94, 3806-07 of 1995.

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M.C. Dhingra for the Petitioners.

The following Order of the Court was delivered :

These special leave petitions have been filed against the judgment of the Division Bench of the Punjab & Haryana High Court, made on May H

A 10, 1996 in C.W.P. No. 14764/94 and batch.

The petitioners are non-provincialised employees working in the notified municipal Committees. The Government in notification No. JA-I-DCFA-DLG-91/3958, dated January 25, 1991 have introduced the pension scheme applicable to All India Gazetted Officers and Punjab Civil Services B Officers working in the municipalities with effect from April 1, 1990. Subsequently, the matter was considered and the benefit of the pension scheme was extended to the employees who are members of non-provincialised service of the Municipal Committees by notification dated July 28, 1994. The question arose : whether those persons who retired before April C 1, 1990 are also entitled to be brought within the pension scheme? Admittedly, they are governed by the Contributory Provident Fund Scheme and on retirement, they had withdrawn the contributory Provident Fund in terms of the scheme that was in vogue earlier. The petitioners had filed the writ petitions in the High Court contending that prescription of a cut-off D date. i.e. April 1, 1990, was arbitrary, and denying them the benefit of the pensionary scheme is violative of Article 14 of the Constitution. The High Court following its earlier decision rendered in *Sham Das Sharma* v. *State of Punjab* dismissed the writ petitions.

Shri Dhingra, learned counsel for the petitioners, contended that in E view of the judgments of this Court in *Union of India* v. *Shri Deoki Nandan Agarwal* [1992] 1 SCC 323; *Shri R.L. Marwah* v. *Union of India* [1987] 3 SCR 928 and *Shri M.C. Dhingra* v. *Union of India & Ors.* JT (1996) 2 SC 463; the cut off date is arbitrary; the pensionary benefits should be extended to the retirees prior to the cut of date; otherwise, it violates Article F 14 of the Constitution. We find no force in the contention. It is true that the pension is not a bounty but a right earned by the persons while in service. But, unfortunately, the pensionary scheme was not in vogue prior to the retirement of the petitioners. The pension scheme came to be introduced for the first time with effect from April 1, 1990 and it was applied to persons serving the municipalities drawn from All India Service G or the Provincial Service. Subsequently, that was extended to other employees in the non-provincial service. The later G.O. also applied to those who retired between April 1, 1990 and July 28, 1994, the date on which the scheme was extended to the non-provincialised employees. In other words, all of them have been treated as a class and no invidious H discrimination has been meted out to them. Thus, the date of April 1, 1990

bears rationality, namely, the scheme for the first time was introduced on that date. All those employees who retired prior to that date were treated as a class and those employees either in service or retiring on and after that date have been treated as a separate class and the scheme was extended to it. Thus, we find that there is no illegality in introducing the cut- off date; nor does it violate Article 14. The ratio in the above judgments has no application to the facts in this case.

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The special leave petitions are accordingly dismissed.

T.N.A. Petitions dismissed.