

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO.682 OF 2023 (S-RES)

BETWEEN:

KARNATAKA POWER CORPORATION LIMITED
A GOVERNMENT COMPANY WITHIN THE
MEANING OF COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT:
No.82, SHAKTI BHAVAN
RACE COURSE ROAD
BENGALURU-560 001
REPRESENTED BY ITS
MANAGING DIRECTOR

...APPELLANT

(BY SRI. AKHILESHA BHAT, ADVOCATE FOR
SRI. PRADYUMNA L. NARASIMHA, ADVOCATE)

AND:

1 . SMT. M.S. RAJESHWARI
W/O LATE M.S. SURYAPRAKSH
AGED ABOUT 69 YEARS
R/AT.1130/1136
KAVITHA JAIN ROAD, II PHASE
GIRINAGAR, BENGALURU-560 085

2 . SMT. N. GANGA DEVI
W/O LATE RAMALINGAM
AGED ABOUT 64 YEARS
R/AT. No.230, 1ST CROSS
VIJAYASHREE LAYOUT
NEAR WONDER BLUE GARMENTS
MYLASANDRA

Digitally signed
by RAKSHA
Location: High
Court of
Karnataka

BENGALURU-560 059

3 . SMT. CHAYA VIJAY
W/O LATE VIJAYA KUMAR
AGED ABOUT 62 YEARS
R/AT. No.57, 20TH MAIN ROAD
1ST BLOCK, RAJAJINAGAR
BENGALURU-560 010

4 . SMT. NAGARATHNA
W/O Y. JANARDHANA SHETTY
AGED ABOUT 66 YEARS
R/AT. SHIVANILAYA
NANDEESH LAYOUT
15TH CROSS
TUMAKURU-572 103

5 . STATE OF KARNATAKA
REPRESENTED BY SECRETARY
FINANCE DEPARTMENT
M.S. BUILDING
BENGALURU-560 001

...RESPONDENTS

(BY SMT. NAYANA TARA B.G, ADVOCATE FOR C/R1 & R2 TO R4;
SMT. PRAMODHINI KISHAN, AGA FOR R5)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT, PRAYING TO (i) SET ASIDE THE IMPUGNED
JUDGEMENT PASSED BY THE LEARNED SINGLE JUDGE IN WP
No.2852/2022, DATED 20.03.2023.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 07.04.2026 AND COMING ON FOR
PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN
J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

The appellant - Karnataka Power Corporation Limited (KPCL) is in appeal against the Order dated 20.03.2023, passed by the learned Single Judge in W.P.No.2852/2022 (S-RES).

2. We have heard Shri. Akhilesha Bhat, learned counsel appearing for Shri. Pradyumna L. Narasimha, learned counsel for the appellant, Smt. Nayana Tara B.G, learned counsel appearing for caveators/respondent No.1 and respondents No.2 to 4 and Smt. Pramodhini Kishan, learned Additional Government Advocate appearing for respondent No.5.

3. The writ petitioners were the family pensioners of employees of the appellant who died/retired prior to 01.07.2005. The question raised was whether the cut-off date fixed as 01.07.2005 for the applicability of revision of pension was justified. The learned Single Judge, after considering the facts of the case and relying on the judgments of the Apex Court in ***D.S. Nakara and Others v.***

Union of India reported in **(1983) 1 SCC 305** and ***All Manipur Pensioners Association by its Secretary v. State of Manipur and Others*** reported in **(2020) 14 SCC 625**, came to the conclusion that there was absolutely no justification in picking and choosing the date of 01.07.2005 for grant of the benefit of revision of family pension.

4. The learned counsel appearing for the appellant submits that the appellant had instructed the panel counsel to file a counter-affidavit in the writ petition but no such counter-affidavit was filed. It is therefore contended that the contentions raised by the appellant in this appeal that it had no financial capacity to pay the family pension benefits to all its employees including those who died/retired before 01.07.2005 is to be considered by this Court in this appeal. It is further contended that the decision in ***D.S. Nakara's*** case (supra), is not applicable to the facts of the case and that the Apex Court has referred the decision in ***All Manipur Pensioners Association's*** case (supra), for consideration by a Larger Bench.

5. It is further contended that there exists a distinction between two classes of pensioners/employees receiving benefits and the law on this issue has undergone significant change post ***D.S. Nakara's*** case (supra). Subsequent decisions of the Apex Court including ***Indian Ex-Services League v. Union of India*** reported in **(1991) 2 SCC 104**, ***T.N. Electricity Board v. R. Veeraswamy*** reported in **(1999) 3 SCC 414** and ***West Bengal Government Pensioners Association v. State of West Bengal*** reported in **(2002) 2 SCC 1979** have held that the ratio in ***D.S. Nakara's*** case (supra) has limited application and cannot be applied to each case where the Government has created distinct classes for payment of pension based on well-founded reasons and intelligible differentia. The learned Single Judge erred in relying solely on ***All Manipur Pensioners Association's*** case (supra) as the same is currently under review before a Full Bench of the Apex Court in ***State of Himachal Pradesh v. K.P. Nayar***, by Order dated **15.02.2022** passed in **SLP No.572/2021**. The cut-off date of 01.07.2005 in KPCL's memo dated 08.08.2007 is

justified, as pensioners retiring before and after that date were differently affected by KPCL's pay revision scheme, establishing a rational nexus with the object sought to be achieved. It is further contended that the ratio of **D.S. Nakara's** case (supra) has been significantly diluted by the Apex Court through subsequent decisions, and the learned Single Judge's reliance thereon is accordingly misplaced.

6. It is further contended that the learned Single Judge erred in relying on **D.S. Nakara's** case (supra) to hold that exclusion of pensioners who retired prior to a cut-off date violates Article 14 of the Constitution of India. In **Union of India v. S.R. Dhingra** reported in (2008) 2 SCC 229, the Apex Court held that employees retiring at different points in time cannot claim identical pensionary benefits as a matter of right, and that the State may create separate classes for such employees without violating Article 14 of the Constitution of India, as they do not constitute a single homogenous group. Similarly, in **State of West Bengal v. W.B. Govt. Pensioners Association** reported in (2002) 2 SCC 179, the Court upheld a cut-off date of

01.01.1986 linked to revised pay scales, holding that **D.S. Nakara's** case (supra) does not mandate equal pension irrespective of last drawn pay and that the cut-off date was based on objective and reasonable criteria was legally permissible.

7. It is further contended that in **State of Punjab v. Amar Nath Goyal** reported in **(2005) 6 SCC 754** and **Government of Andhra Pradesh v. N. Subbarayudu** reported in **(2008) 14 SCC 702**, the Apex Court further recognised that severe financial constraints on the public exchequer constitute sufficient justification for a cut-off date, and that the mere act of setting such a date cannot be held arbitrary unless it is shown to be wholly capricious and without any objective basis whatsoever. In the instant case, the cut-off date of 01.07.2005 is grounded on reasonable factors, namely the differential impact of KPCL's pay revision scheme on employees retiring before and after that date. The learned Single Judge's misapplication of **D.S. Nakara's** case (supra) and **All Manipur Pensioners Association's** case (supra) has resulted in an estimated financial liability of

approximately Rs.250 crores on the appellant-Corporation, as disclosed in its Affidavit dated 27.02.2024.

8. It is further contended that the respondents misrepresented the factual position regarding their family pension before the learned Single Judge. Contrary to the respondents' assertion that family pension at rates prevailing nearly two decades ago continues to be paid, the appellant-corporation has, on a timely basis, revised the family pension payable to the respondents in accordance with circulars and orders issued by the Government of Karnataka from time to time. The revised figures demonstrate successive upward revisions pursuant to the 2007, 2012, and 2019 Memos, refuting the respondents' allegation in its entirety.

9. The learned counsel appearing for the appellant placed reliance on the following judgments:-

- ***The State of Himachal Pradesh and Another v. K.P. Nayar*** by Order ***dated 15.02.2022*** passed in ***Special Leave to Appeal (C) No.572/2021***;
- ***Government of Andhra Pradesh and Others v. N. Subbarayudu and Others***, reported in ***(2008) 14 SCC 702***;

- ***State of Rajasthan and Another v. Amrit Lal Gandhi and Others***, reported in (1997) 2 SCC 342;
- ***Hari Ram Gupta (Dead) Through L.R. Kasturi Devi v. State of U.P.***, reported in (1998) 6 SCC 328;
- ***Union of India v. P.N. Menon and Others***, reported in (1994) 4 SCC 68;
- ***Indian Ex-Services League and Others v. Union of India***, reported in (1991) 2 SCC 104;
- ***T.N. Electricity Board v. R. Veerasamy and Others***, reported in (1999) 3 SCC 414;
- ***Union of India v. S.R. Dhingra and Others***, reported in (2008) 2 SCC 229;
- ***State of W.B. and Another v. W.B. Govt. Pensioners' Associations and Others***, reported in (2002) 2 SCC 179;
- ***State of Punjab and Others v. Amar Nath Goyal and Others***, reported in (2005) 6 SCC 754; and
- ***Rajendra Shankar Shukla and Others v. State of Chhattisgarh and Others***, reported in (2015) 10 SCC 400.

and it is contended that all pervading effect of ***D.S. Nakara***'s case (supra), has been diluted by the subsequent judgments of the Apex Court.

10. The learned counsel appearing for respondents No.1 and 2 to 4, on the other hand, contended that there is absolutely no justification for artificially creating two classes of family pensioners in the KPCL. It is contended that the Pension Scheme was introduced in the KPCL only in the year 2002, and that it was only on account of a cut-off date fixed in the pay and pension revision orders of the State Government, that the said date was picked and chosen by the KPCL without any application of mind for giving effect to the benefits of liberalisation of pension. It is further contended that even in this appeal, there is absolutely no material placed on record to show that there has been any application of mind as to the amount required to meet the financial implications of the order of the learned Single Judge. It is further contended that the respondents in writ appeal had agreed not to claim arrears of revision of family pension till the date of the judgment of the learned Single Judge. It is on the basis of the said undertaking, an affidavit has been placed on record by the KPCL specifically stating that only an amount of ₹4,00,00,000/- would be required to

grant the benefits of the liberalized pension to all the petitioners and all similarly situated family pensioners, that is, the family pensioners of persons who died/retired before 01.07.2005.

11. It is further contended that the pensioners constitute a single homogenous class, irrespective of their date of retirement, and that the imposition of a cut-off date creates an impermissible sub-classification lacking any intelligible differentia, thereby violating Article 14 of the Constitution of India. The writ petitioners, by virtue of their exclusion on the basis of such cut-off date, receive a meagre pension incommensurate with inflation and rising prices, rendering several family pensioners destitute. The appellant-State having not contested the matter, no justification has been offered for the cut-off date. It is further contended that mere financial burden cannot justify an arbitrary cut-off date, more so when the appellant's own affidavit dated 04.06.2024 discloses a financial outlay of merely Rs.4,00,00,000/-, which is insufficient to sustain the same.

12. It is further contended that the Government Order and Memo are contrary to the decision of the Apex Court in ***D.S. Nakara's*** case (supra), wherein it was held that a liberalised pension scheme enures to the benefit of all pensioners irrespective of date of retirement, pensioners forming a single homogenous class admitting of no inter se discrimination. Decisions that distinguish ***D.S. Nakara's*** case (supra) have arisen in the context of terminal service benefits such as gratuity, provident fund, and the like and not in respect of pension, which remains a continuing obligation of the State.

13. The learned Single Judge's reliance on ***All Manipur Pensioners' Association's*** case (supra), which follows ***D.S. Nakara's*** case (supra), is well-founded. The mere fact that the said decision has been referred to a larger Bench for reconsideration does not render the impugned order erroneous, nor does it dilute the ratio in ***D.S. Nakara's*** case (supra).

14. The learned counsel appearing for the respondents No.1 and 2 to 4 placed reliance on the following judgments:-

- ***D.S. Nakara and Others v. Union of India*, reported in (1983) 1 SCC 305;**
- ***All Manipur Pensioners Association By its Secretary v. State of Manipur and Others*, reported in (2020) 14 SCC 625;**
- ***Postmaster General and Others v. Living Media India Limited and Another*, reported in (2012) 3 SCC 563;**
- ***State of Madhya Pradesh and Others v. Bherulal*, reported in (2020) 10 SCC 654;**
- ***Union of India v. Vodafone Mobile Services Ltd.*, reported in 2022 SCC OnLine SC 1580;**
- ***Union of India and Another v. Deoki Nandan Aggarwal*, reported in 1992 Supp (1) SCC 323;**
- ***State of Rajasthan and Another v. Prem Raj*, reported in (1997) 10 SCC 317;**
- ***Subrata Sen and Others v. Union of India and Others*, reported in (2001) 8 SCC 71; and**
- ***Union of India and Another v. SPS Vains (Retd.) and Others*, reported in (2008) 9 SCC 125.**

15. We have considered the contentions advanced. We have also gone through the judgments placed before us. We are clear in our mind that the ratio of the decision in ***D.S. Nakara***'s case (supra), is specifically that two classes of similarly situated persons cannot be artificially created by an arbitrary exercise while effecting a revision of pension which ought to be applicable to all pensioners equally. It was specifically held that pensioners form a class as a whole and cannot be micro-classified by an arbitrary, unprincipled and unreasonable eligibility criterion for the purpose of grant of revised pension. The decisions relied on by the learned counsel appearing for the appellant are those where either a new pension scheme is introduced with a cut-off date or new benefits are granted on the basis of revisions of pay which obviously has to be limited to persons who are in service as on the cut-off date on financial considerations.

16. In ***State of Rajasthan v. Prem Raj***'s case (supra), the Division Bench of the Apex Court considered the three decisions of the Constitution Bench in ***D.S. Nakara***'s case (supra), ***Krishena Kumar v. Union of India*** reported

in **(1990) 4 SCC 207** and **Indian Ex-services League's** case (supra), and held at paragraphs No.9, 10 and 11, as follows:-

"9. In *D.S. Nakara* case the memoranda issued by the Government of India dated 25-5-1979 and 23-9-1979 liberalising the form for computation of pension in respect of employees governed by the Central Civil Services (Pension) Rules, 1972 who retired on or after 31-3-1979 was challenged to be arbitrary and violative of Article 14. This Court came to the conclusion that when the State considered it necessary to liberalise the Pension Scheme in order to augment the social security in old age to government servants, it could not grant benefit of liberalisation only to those who retired subsequent to the specified date and deny the same to those who had retired prior to that date. The division which classified the pensioners into two classes on the basis of the specified date was devoid of any rational principle and was both arbitrary and unprincipled being unrelated to the object sought to be achieved by grant of liberalised pension and the guarantee of equal treatment contained in Article 14 was violated inasmuch as the pension rules which were statutory in character meted out differential and discriminatory treatment to equals in the matter of computation of pension from the dates specified in the impugned memoranda.

10. This Constitution Bench decision was considered by another Constitution Bench in *Krishena Kumar* case. In the said case prior to 1957 the only scheme for retirement benefits in the Railways was the Provident Fund Scheme. The same scheme was replaced in the year 1957 by a pension scheme. Thus all the employees who were in service prior to the introduction of pension scheme were given option either to retain the Provident Fund benefits or to switch over to pensionary benefits on the condition that the contribution made by the Railways to the provident accounts would revert to the Railways on exercise of option. The employees who did not opt for pension scheme even though they had ample opportunity to opt for the same, came forward with a claim that they should be given the benefits of pensionary scheme following the principle of *Nakara* case. This Court held that the pension scheme and the provident fund scheme are structurally different and applying the principles of *Nakara* case, it cannot be held that the pension retirees and the provident fund retirees form a homogeneous class. The Court also further held that the rules governing the provident fund are entirely different from rules governing pension scheme and, therefore, it would not be reasonable to argue that the rules applicable to the pension retirees was also equally applicable to provident fund retirees. It was noticed by the Court that in *Nakara* case the provident fund retirees were not in mind before the Court and only the pension

retirees were treated as a homogeneous class. The Court further held that there would be no discrimination in treating the provident fund retirees differently from the pension retirees.

11. In the case of Indian Ex-Services League v. Union of India, in yet another Constitution Bench case the liberalised pension scheme and fixation of cut-off date for applicability of the same came up for consideration before the Court. The petitioners therein claimed "one rank one pension" for all retirees in the armed forces irrespective of the date of retirement by application of Nakara case. The Court held that the decision in Nakara case has to be read as one of limited application and its ambit cannot be enlarged to cover all claims made by the pension retirees or a demand for an identical amount of pension to every retiree from the same rank irrespective of the date of retirement, even though the reckonable emoluments for the purpose of computation of their pension be different. In the aforesaid case, consequent upon the decision of this Court in Nakara case a Notification was issued on 3-12-1983 by the Government of India for recomputing the revised pension of pre-1-4-1971 retirees according to liberalised pension scheme. The recomputation was made according to the liberalised pension scheme giving the same benefit to all retirees irrespective of their date of retirement. But the petitioners contended that the ratio of Nakara case is that all retirees who held the

same rank irrespective of the date of retirement must get the same amount of pension. This Court rejected the said contention. On reading the memorandum of the Government of India the Court held that the benefit of liberalised pension scheme was made applicable even to pre-1-4-1979 retirees of the armed forces and the computation according to the liberalised formula for them was done by Government order dated 22-11-1983 and 3-12-1983. In other words, what was held by this Court in the Indian Ex-Services League case that after introduction of the liberalisation scheme, from a specified date, even the retirees earlier to the same date would get the benefit of the liberalisation scheme but not in the same manner and to the same extent to which persons in service and retiring after the date would get."

17. Even thereafter, the Apex Court has clearly held that there can be no discrimination created between employees, who retired prior to and after a particular date for being entitled to the benefits of a revised pension scheme. This would be clear from a reading of the judgments.

18. ***Government of Andhra Pradesh and Others v. N. Subbarayudu and Others*** (supra), is specifically with regard to fixing a cut-off date for the implementation of a

pension scheme for the first time with effect from 01.11.1992 as regards lecturers in Private Aided Colleges. In ***State of Rajasthan v. Amrit Lal Gandhi***'s case (supra), is also with regard to a cut off date for introduction of a pension scheme. The same is the case with the other decisions relied on as well.

19. In the instant case, the challenge raised was against Annexure 'C' - Government Order dated 06.06.2007 issued by the respondent No.1 - Government of Karnataka insofar as it fixed a cut-off date of 01.07.2005 and excluded family pensioners of persons who died/retired before 01.07.2005 from the liberalised formula for fixing family pension. A challenge was also raised to Annexure 'D' - Memo issued by the KPCL on 08.08.2007. By Annexure 'D' the Government Order was adopted by the KPCL. Clauses No.9 to 11 of the Memo provided for different rates of pension/family pension to pensioners/family pensioners prior to 01.07.2005 and pensioners/family pensioners from 01.07.2005. The memo therefore produced two classes of family pensioners, that is, pre and post-01.07.2005. The

learned Single Judge specifically considered the judgments of the Apex Court and found that the Government Order and the memo amounted to creating two separate classes of pensioners, that is, pre-01.07.2005 and post-01.07.2005 retirees. It was specifically found that the classification has no rational nexus to the object that is, sought to be achieved. Therefore, the impugned memo dated 08.08.2007 was set aside and the appellant was required to pay pension to the pre-01.07.2005 retirees also at the same dates as in the case of the post-01.07.2005 retirees.

20. In the instant case, there was no contention regarding financial constraints raised before the learned Single Judge. It is clear that it was only on account of the cut-off date as provided in Annexure 'C'- Government Order that the same was made applicable by the KPCL as well. However, in the KPCL, since the Pension Scheme had been brought into force for the first time only in the year 2002, the number of persons who would have been eligible for the modified pension/family pension would not be the same as in the case of the Government. Even before us, the KPCL

has not succeeded in showing that there was any application of mind as to the financial implications while issuing the memo which was under challenge before the learned Single Judge. No such exercise of application of mind is also evident from any of the materials placed on record. The affidavit filed on 04.06.2024, further discloses that since respondents have agreed to forego the arrears of family pension, the financial requirements to meet the payment of the revised family pension to all the petitioners and all identically situated persons, would only be Rs.4,00,00,000/-. In the nature of the undertaking and the size of the establishment of the appellant, we are of the opinion that the amount of ₹4,00,00,000/- can, by no stretch of imagination, be said to be such a financial liability as to make it an acceptable reason for KPCL to deny the benefits to persons like the petitioners.

21. In the above view of the matter, we are of the opinion that the contentions raised by the appellant cannot be accepted. The writ appeal is therefore ***disposed of***, upholding the finding of the learned Single Judge but

limiting the arrears payable to the respondents and other similarly situated employees from the date of the judgment of the learned Single Judge. The amounts due shall be calculated and disbursed without delay, at any rate within three months from today.

All pending interlocutory applications shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

cp*