

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.9663, 10944, 10960, 10979
and 11036 OF 2015

COMMON ORDER: *(Per the Hon'ble Sri Justice Ramesh Ranganathan)*

These Writ Petitions are preferred by the Union of India against the common order passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad in O.A.No.56 of 2014 and batch dated 04.09.2014. The first respondent in the respective Writ Petitions are the applicants in O.A.Nos.56, 71, 74, 72 and 60 of 2014. They and others invoked the jurisdiction of the Tribunal seeking extension of the benefits under the Modified Assured Career Progression Scheme (MACPS) for the Central Government Civilian Employees. Paras 9 and 11 of the salient features of the Scheme read thus:

“9. ‘Regular service’ for the purposes of the MACPS shall commence from the date of joining of a post in direct entry grade on a regular basis either on direct recruitment basis or on absorption/re-employment basis. Service rendered on adhoc/contract basis before regular appointment or pre-appointment training shall not be taken into reckoning. However, past continuous regular service in another Government Department in a post carrying same grade pay prior to regular appointment in a new Department, without a break, shall also be counted towards qualifying regular service for the purposes of MACPS only (and not for the regular promotions). However, benefits under the MACPS in such cases shall not be considered till the satisfactory completion of the probation period in the new post.”

“11. ‘Regular service’ shall include all periods spent on deputation/Foreign Service/Study leave and all other kind of leave, duly sanctioned by the competent authority.”

While the petitioners herein contended before the Tribunal that in view of para 9 of the Scheme, the first respondent in the Writ Petitions were not entitled for the benefits of the Scheme, the first respondent in the Writ Petitions in turn relied on para 11. Though the Tribunal has referred to both paras 9 and 11 of

the salient features of the Scheme, in the common order under challenge in the Writ Petitions, it has granted relief placing reliance only on para 9, and has not dealt with para 11 of the Scheme.

While we were initially inclined to admit the Writ Petitions and grant stay, Sri Krishna Devan, learned counsel for the first respondent, would submit that, instead, the matter can be sent back to the Tribunal for its adjudication afresh, taking into consideration para 9 of the Scheme. Sri B. Narayana Reddy, learned Assistant Solicitor General readily agrees for such an order being passed.

As the Tribunal has failed to notice the effect of para 9 of the Scheme, on the entitlement or otherwise of the first respondent to be granted benefits under the said Scheme, the impugned common order of the Tribunal is set aside and the matter is remanded for its consideration afresh in accordance with law. Needless to state that the Tribunal shall put the parties on notice, and give them an opportunity of being heard, before passing an order afresh.

The Writ Petitions stand disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall also stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

Date: 20.04.2015

va