IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

****

W.P.No.5190 of 2002

Between:

M.B.Shivaram and others .... Petitioners

And

The Union of India rep. by Secretary to
Government of India Ministry of Civil Aviation,
Sardar Patel Bhavan, New Delhi

.... Respondents

DATE OF JUDGMENT PRONOUNCED: **31.07.2015**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

1. Whether Reporters of Local Newspapers may be allowed to see the judgments? Yes / No
2. Whether the copies of judgment may be marked to Law Reporters / Journals? Yes / No
3. Whether Their Lordship wish to see the fair copy of the Judgment? Yes / No

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

W.P.No.5190 of 2002

Order:

Petitioners, 9 in number, filed the present writ petition seeking a writ of Mandamus to declare the action of the respondents for non-implementation of the pension scheme w.e.f. 01.04.1978 on the basis of bi-partite settlement arrived between the Management and Employees Union as per the letter dated 12/24.03.1992 instead fixing it prospectively from 01.04.1994 as arbitrary, illegal and discriminatory and fix a notional fitment for these employees on their respective category basis and direct the respondents to pay the amounts under the annuity scheme from 01.04.1978 in the interest of justice.

2) Brief facts which are necessary for disposal of writ petition are as under:

a) The case of the petitioners is that they served in Indian Airlines in various categories and retired from service between 1982 and 1992. It is submitted that in the year 1978 Air

Corporation Employees Union submitted a representation to the Indian Airlines with regard to their demands but no agreement was arrived. So, they raised Industrial Dispute before the Chief Labour Commissioner (Central), New Delhi. After several meetings and joint discussions Memorandum of Settlement (MOS) was arrived at between the parties on 09.01.1979 with regard to various service benefits including implementation of pension and Group Insurance Scheme to the workmen.

b) As per the conciliation proceedings, the parties arrived at a settlement. In item 13 of the settlement, the Management agreed to implement Pension Scheme and Group Insurance Scheme subject to approval of the Central Government.

c) The further case of the petitioners is that though whole agreement was implemented with effect from 01.04.1978, unfortunately item 13 i.e. Pension Scheme could not be implemented. The Management made a contribution of Rs.130 lakhs in the budget for the financial year 1978-79 under the caption "Superannuation Scheme" and approved by the Board of Indian Airlines Corporation so as to provide pension to the retired employees with effect from 01.04.1978. The annual reports of the Indian Airlines Corporation was also approved by the Parliament and the said contribution continued till 1986-87 by adding further amounts every year that accrued Rs.17.88 crores (including provision of one crore made for that year). All these annual reports were approved by the

Parliament.

d) The further case of the petitioners is that contribution to the superannuation fund was dispensed with arbitrarily without intimating to the Union from 1986-87. Several joint meetings were held between Management and Union to work out the scheme to get the benefits to the retired workmen with effect from 01.04.1978. The matter was pursued by the Association and made representations to the Hon'ble Civil Aviation Minister and reply was received on 19.07.1999 from Deputy Secretary to Government of India, Ministry of Civil Aviation stating that in view of the guidelines, the scheme as per MOS cannot be extended to the employees who retired before 01.04.1994.

e) Their further case is that All India Airlines Retired Personnel Association filed a writ petition—CO 5192 of 1994 before the Honourable High Court of Calcutta questioning the action of the Indian Airlines Management of non-introduction of Pension Scheme for its workmen with effect from 01.04.1978 as agreed previously. The said writ was pending by the time of filing the present writ petition.

f) The further case of the petitioners is that India Airlines Corporation is an independent statutory body constituted under Airlines Corporation Act, 1953 and implemented all 18 items of the settlement under MOS dated 09.01.1979 but item 13 is concerned, they kept a rider "*subject to the approval of the Central Government*" which is obnoxious and untenable.

Hence the present writ petition.

3) Heard both sides.

4) During the course of hearing, it is brought to the notice of this Court that Honourable Calcutta High Court passed an order dated 21.05.2002 in CO 5912 of 1994 and Assistant Solicitor General produced copy of the order.

5) A perusal of the said order shows that learned Judge directed the writ petitioners therein to make a comprehensive representation to the Secretary, Ministry of Civil Aviation, Union of India within a period of four weeks from the date of order and in case representation was made, the Secretary of the concerned Ministry was directed to give personal hearing to the writ petitioners through their authorised representatives and upon hearing pass a reasoned order to be communicated to the petitioners. The entire process shall be completed within 12 weeks from the date of receipt of the representation.

6) Since the present writ petitioners also stand on the same footing, similar order, in my considered views, will meet the ends of justice.

7) Therefore, this Writ Petition is disposed of by granting opportunity to the writ petitioners herein to make a comprehensive representation to the Secretary, Ministry of Civil Aviation, Union of India, within a period of six (6) weeks from the date of this order, in which case the Secretary of the concerned Ministry shall give personal hearing to the writ

petitioners through their authorised representatives and upon such hearing, the Secretary shall pass a reasoned order and communicate to the writ petitioners. The entire process must be completed within a period of 12 weeks from the date of receipt of representation. No costs.

U.DURGA PRASAD RAO, J

Date: 31.07.2015

Murthy