

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

WRIT PETITION No.19385 of 2016

Between:

The Union of India,
represented by its Secretary,
Department of Telecom, New Delhi

..Petitioner

And

M.S.S.Ramachandra Murthy and others

..Respondents

JUDGMENT PRONOUNCED ON: 17th June, 2016

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G.SHYAM PRASAD**

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| 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 Ladyship/Lordship
wish to see the fair copy of the Judgment? | Yes/No |

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

*** THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

AND
THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

+ WRIT PETITION No.19385 of 2016

% 17.06.2016

The Union of India,
represented by its Secretary,
Department of Telecom, New Delhi ..Petitioner

And

Vs.

\$ M.S.S.Ramachandra Murthy and others ..Respondents

! Counsel for the petitioner: Mr.B.Narayana Reddy,
Assistant Solicitor General

Counsel for the respondents: --

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>Head Note:

? Cases referred:

1. (2005)(2) ALD 1 (F.B.)
2. 2002(4) ALT 550 (D.B.)

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Assistant Solicitor General

Counsel for the respondents: --

The Court made the following:

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ORDER: (Per the Hon’ble Sri Justice C.V.Nagarjuna Reddy)

A well reasoned and articulated order, dated 18.11.2015, of the
Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short ‘the
Tribunal’) – respondent No.5 in O.A.No.021/00252/2015 is assailed by the

Union of India in this writ petition.

2. Since the Tribunal has recorded all the necessary facts, to avoid duplicity, we do not propose to refer to those facts. It will suffice to note that the point that arose before the Tribunal was whether respondent No.1 was entitled to the enhanced D.A., which was declared on the day on which he has attained the status of pensioner (the day immediately following the day on which he has retired on reaching the age of superannuation) and he was entitled to the benefit of the enhanced D.A. for all purposes. The Tribunal rightly relied upon the Full Bench judgment in **the Principal Accountant General, A.P., Hyderabad vs. C.Subba Rao**^[1] in accepting the plea of respondent No.1. The following portion of the judgment of the Full Bench, on which the Tribunal has rightly placed reliance, would put the controversy beyond any pale of doubt:

“The question would arise only in Writ Petition No.22042 of 2003 where the respondent therein also claimed DA instalments at 49%. As held by us supra, a Government servant who would be retiring on the last day of the month would cease to be the Government servant by midnight of that day and he would acquire status of pensioner and therefore he would be entitled for all the benefits given to a pensioner with effect from the first day of the succeeding month. In Banerjee’s case (supra), the Supreme Court laid down that as soon as first day of the succeeding month commenced, petitioner retired and gave the benefit of enhanced DA. The same view has been consistently followed in subsequent decisions as well. To that extent, it must be held that the learned Tribunal has taken a correct view.”

3. As we could see from the Full Bench judgment, this Court has drawn a distinction between an increment and enhanced D.A. While reversing the judgment of the Division Bench of this Court in **Union of India vs. R.Malakondaiah**^[2], pertaining to the point of time at which Government servant attains the status of pensioner on his retirement, the Full Bench, however, held that a person who retires on the last working day would not be entitled for any increment falling due on the next day, but nevertheless, he would be entitled to all the benefits of pensioners with effect from the first day of succeeding month as he acquires the status of pensioner from that date.

4. In the light of the law laid down by the Full Bench as rightly followed by

the Tribunal, we do not find any reason to interfere with the impugned order.

5. The Writ Petition is, accordingly, dismissed.

6. As a sequel to dismissing the Writ Petition, W.P.M.P.No.23781 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

17th June, 2016

Note: L.R.copies to be marked.
(B/o)
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[\[1\]](#) (2005)(2) ALD 1 (F.B.)

[\[2\]](#) 2002(4) ALT 550 (D.B.)