

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.3733 of 2016

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18.02.2016

Between:

Union of India,
represented by the General Manager,
East Coast Railway, Odisha and others ..Petitioners

And

Ch.Ananda Rao and others ..Respondents

Counsel for the petitioners: Mr.C.V.Rajeeva Reddy

Counsel for the respondents: --

The Court made the following:

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ORDER: (Per CVNR,J)

This writ petition is filed feeling aggrieved by the order, dated 06.11.2013, in O.A.No.574 of 2013 of respondent No.4 – Tribunal.

2. We have heard Mr.C.V.Rajeeva Reddy, learned counsel for the petitioners, and perused the record.

3. Respondent Nos.1 to 3 herein filed the aforementioned O.A. before the Tribunal for declaring that they are entitled for the add on element of 55% in fixing their retiral benefits from the date of their retirement in terms of the orders, dated 02.01.2007 in O.A.No.1273 of 2005 and dated 05.06.2007 in O.A.No.396 of 2006 of the Central Administrative Tribunal, Principal Bench, New Delhi, and dated 16.08.2012 in O.A.No.511 of 2011 of the Central Administrative Tribunal, Hyderabad Bench. This claim was conceded by the counsel for the respondents therein/petitioners herein before the Tribunal and based on such concession and following the previous orders referred to above, the Tribunal has allowed O.A.No.574 of 2013, by order, dated 06.11.2013, and granted the relief claimed therein by respondent Nos.1 to 3 herein. More than two years after the passing of the said order, the present writ petition is filed assailing the same.

4. At the hearing, the learned counsel for the petitioners has not disputed that the order impugned in this writ petition is based on the concession made by the counsel for his clients before the Tribunal. He has, however, submitted that after the disposal of the O.A., the petitioners have carried the matter in writ petitions before the Delhi and Chennai High Courts and thereafter in Special Leave Petitions (S.L.Ps.) to the Supreme Court, that subsequently, the Supreme Court has remanded the cases to the respective High Courts for fresh decisions and that later, the said High Courts have reiterated their earlier decisions. He has further submitted that at present, the S.L.Ps. filed against the decisions of the

Delhi and Chennai High Courts are pending before the Supreme Court. He has accordingly submitted that as the orders, dated 02.01.2007 in O.A.No.1273 of 2005 and dated 05.06.2007 in O.A.No.396 of 2006 of the Central Administrative Tribunal, Principal Bench, New Delhi, and dated 16.08.2012 in O.A.No.511 of 2011 of the Central Administrative Tribunal, Hyderabad Bench, have not attained finality, the petitioners have filed this writ petition.

5. In our opinion, no writ petition would lie against an order passed based on the concession made on behalf of the petitioners. If any events relevant to the case have occurred subsequent to the disposal of the case by the Tribunal, it could be appropriate for the petitioners to move the Tribunal, by way of an application and seek appropriate modification or recalling of such order. Therefore, while declining to interfere with the impugned order, the petitioners are relegated to the Tribunal by way of an appropriate application.

6. Subject to the liberty given to the petitioners as above, the Writ Petition is dismissed.

7. As a sequel to dismissal of the writ petition, W.P.M.P.Nos.4770 and 4771 of 2016 filed by the petitioners for interim reliefs shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

18th February, 2016

GHN