

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice M.S.K.Jaiswal

Writ Petition No.13611 of 2016

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Date: 22.04.2016

Between:

Union of India
rep. by its Secretary to the Govt.,
Dept., of Atomic Energy
Mumbai and 2 others

.. Petitioner

and

M.Srinivasan and 32 others

.. Respondents

Counsel for the petitioner :

**Mr.B.Narayana Reddy,
Asst.Solicitor General**

Counsel for respondent Nos.1 to 3: Smt.Anita Swain

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The Court made the following:

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Order : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for a Certiorari to quash Order, dated 14-08-2015, in OA/021/00957/2015, on the file of the Central Administrative Tribunal, Hyderabad Bench at Hyderabad (for short 'the Tribunal'), whereby it has allowed the said OA following its earlier Order, dated 20-11-2014, in OA.No.288 of 2013.

We have heard Mr.B.Narayana Reddy, learned Assistant Solicitor General, and perused the record.

The issue raised in the OA before the Tribunal pertains to treating the increments granted to the applicants under Office Memorandum, dated 03-02-1999, as 'pay' as defined under Fundamental Rule 9 (21) (a).

A perusal of the record shows that the said issue was raised by certain employees, who were similarly placed to the petitioners, before the Central Administrative Tribunal, of Ernakulam Bench. The said Bench has dismissed the OAs. Feeling aggrieved by the said dismissal, the applicants therein filed W.P.(Civil) Nos.29358 of 2004 and batch

in the High Court of Kerala. The Kerala High Court allowed the said Writ Petitions by order, dated 18-01-2007, granting the relief claimed by the petitioners therein. The judgment of the Kerala High Court was upheld by the Supreme Court by Order, dated 04.04.2011, in SLP.No.555-560 of 2008. Certain similarly placed employees have filed OA.No.288 of 2013 before the Hyderabad Bench of the Tribunal. By a detailed judgment and following the judgment of the Kerala High Court, the Tribunal has allowed the said OA.

Respondents Nos.1 to 22, who are admittedly situated similar to the applicants in OA.No.288 of 2013, have filed OA/021/00957/2015 for a similar relief. The learned Senior Central Government Standing Counsel, who has taken adjournment for instructions, reported before the Tribunal that the issue raised in the OA is squarely covered by Order, dated 20-11-2014, in OA.No.288 of 2013. Therefore, following the Order in the said OA, the Tribunal has allowed OA/021/00957/2015 by the impugned order.

The learned Assistant Solicitor General has fairly admitted the above noted facts as correct.

Inasmuch as the order passed by the Kerala High Court has received the approval of the Supreme Court with regard to the relief granted to the similarly situated employees, the Tribunal has allowed OA.No.288 of 2013 and following the said order, it has allowed OA/021/00957/2015, out of which the present Writ Petition arises.

In the light of the above facts, we do not find any merit in this Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.17010 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(M.S.K.Jaiswal, J)

Dt: 22nd April, 2016
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