

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 23.02.2017	Date of pronouncing Judgment 28.03.2017
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CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE V. PARTHIBAN

Writ Petition Nos.43373 to 43378 of 2016
and
WMP.Nos.37233 to 37236, 37238 and 37240 of 2016

W.P.No.43373 of 2016

- 1 The Union of India
represented by its Secretary
Ministry of Communication and Information Technology
Department of Telecommunication
Sanchar Bhawan
New Delhi-110 001.
- 2 The Deputy Director General (PG)
Department of Telecommunication
Government of India
DDG, PG, Room No.1210
Sanchar Bhawan, No.20, Ashoka Road
New Delhi-110 001.
- 3 Under Secretary to Government of India
Department of Telecommunication
Government of India
DDG, PG, Room No.1210
Sanchar Bhawan, No.20, Ashoka Road
New Delhi-110 001.

.. Petitioners
in all the WPS

Versus

K.Premkumari	... 1 st Respondent in WP No.43373/16
S.Sukumaran	... 1 st Respondent in WP No.43374/16
S.Karthikeyan	... 1 st Respondent in WP No.43375/16
S.Jayaraman	... 1 st Respondent in WP No.43376/16
V.Geetha	... 1 st Respondent in WP No.43377/16
P.B.John	... 1 st Respondent in WP No.43378/16

2.The Central Administrative
Tribunal Rep.By its Registrar Madras
Bench Chennai-600 104.

... 2nd Respondent in
WP Nos.43373 to 43378 of 2016

Writ Petitions have been filed under Article 226 of the
Constitution of India for issuance of a Writ of Certiorari
calling for the records of the 2nd respondent dated 27.04.2016
made in O.A. No.310/01534/2015 and quash the same. (WP.43373/16)

Calling for the records of the 2nd respondent dated 27.04.2016
made in OA No.310/01535/2015 and quash the same.(Wp.No.43374 of
2016)

Calling for the records of the 2nd respondent dated 27.04.2016
made in OA No.310/01536/2015 and quash the same.(Wp.No.43375 of
2016)

Calling for the records of the 2nd respondent dated 27.04.2016
made in OA No.310/01537/2015 and quash the same.(Wp.No.43376 of
2016)

Calling for the records of the 2nd respondent dated 27.04.2016
made in OA No.310/01538/2015 and quash the same.(Wp.No.43377 of
2016)

Calling for the records of the 2nd respondent dated 27.04.2016
made in OA No.310/01539/2015 and quash the same.(Wp.No.43378 of
2016)

For Petitioners : Mr.V.P.Sengottuvel
SCGSC

For Respondent-1 : Mr. Balan Haridas

R2 : Tribunal

COMMON ORDER

(Order of the Court was delivered by V.PARTHIBAN,J.)

All these Writ Petitions arise from a common order of the
Central Administrative Tribunal, Madras Bench, rendered in
O.A.Nos.1534 to 1539 of 2015 dated 27.04.2016.

2. The issues raised in the Original Applications and the relief sought for are common to all the applications and therefore, the learned Tribunal disposed of all the Original Applications by a common order. The relief claimed in the Original Applications is extracted below:-

"(i) to quash the order of the 3rd respondent dated 30.07.2015 bearing No.37-3/2014-SU (6) and (ii) consequently, direct the respondents to shift the date of absorption of the applicants and grant of pro-rata pension in accordance with law with effect from the date when the same had been extended to the employees who had filed W.P.Nos.39431 to 39434 of 2005 and W.P.Nos.14769 to 14773 of 2013 and pay pension along with pension arrears to the applicants"

3. For the sake of clarity, the parties are referred to as applicants and respondents as arrayed before the learned Tribunal.

4. The applicants are working as Officers in Tata Communication, which is a private sector undertaking. The applicants originally joined in the Department of Telecommunication and later, absorbed in VSNL. The VSNL was taken over by the Tata Communication with effect from 13.02.2002. The service rendered by the applicants in VSNL were pensionable. However, before they could complete the minimum required number of years of service to enable them to get pensionary benefits, their services came to be absorbed in the private sector, thereby denying them the minimum pension payable to them, otherwise.

5. In the above said circumstances, the applicants approached the Tribunal for relief of pensionary benefits by shifting their date of absorption in the VSNL to enable them to complete ten years of service in the Telecommunication Department and enable them to draw pension thereon. Initially, these applicants had approached the Tribunal in separate Original Applications and however, directions were issued to consider the grant of relief prayed by the applicants. However, it appears that the claim of the applicants was rejected for shifting of the date of absorption and for grant of pro-rata pension. Therefore, the applicants once again constrained to approach the Tribunal for the relief as extracted supra.

6. Before the learned Tribunal, it was contended on behalf of all the applicants that the prayer as far as in the Original Applications has been considered in similar applications and the Writ Petitions decided by this Court and in all the cases, the employees therein were granted the benefit of shifting of the

date of absorption to enable them to complete the minimum ten years of service for them to claim pensionary benefits. The learned Tribunal quoted the order passed by this Court in few Writ Petitions and extracted the finding in one of the matters in paragraph - 9 of the impugned order. After appreciating the similar orders passed by this Court, the learned Tribunal allowed the Original Applications and by giving a direction as contained in paragraph-10 of the order, which is extracted below:-

"10. It is, therefore, clear that the respondent authorities have implemented the Hon'ble High Court orders in the earlier OAs in similar matters. The learned counsel for the applicants could give the details of each of the similarly situated employees, who had been extended the benefit of the Hon'ble High Court Judgments to the respondent authority and the respondent authority are given liberty to verify those particulars and apply the orders of the Hon'ble Madras High Court to the effect that if the applicants are falling short of completion of 10 years service before absorption, that date could get postponed till completion of 10 years in the VSNL and that service would be deemed to be the requisite service required for pro-rata pension at the hands of the Central Government. On that basis, the pro-rata pension payable to the applicants shall be calculated and paid to the applicants. However, the applicants are required to refund the gratuity already received with 9 percent simple interest per annum. The Department will adjust the arrears and pay the balance to the applicants. If any amount is payable by the applicants, by calculating such amount with interest at 9 percent per annum, the applicants would refund the same within a period of three months from the date on which the communication would be received. The order shall be complied with within a period of three months from the date of receipt of a copy of the order. No costs."

As against the above direction, the present Writ Petitions have been filed.

7. The learned counsel Mr.V.P.Sengottuvel appearing for the petitioners in all the Writ Petitions / respondents in Original Applications would strongly contend that the present applicants are not entitled to the relief as given to other similarly placed employees in the Writ Petitions cited by the

Tribunal for the reason that the fall short of very many years in fulfilling the minimum number of years of service ie., 10 years for claiming prorata pension. The shortage, according to him, was huge and therefore, there could not any equitable consideration for grant of the relief prayed for by the applicants. On the other hand, Sri.Balan Haridas, learned counsel appearing for the applicants would equally contend that in respect of all similarly placed employees in other departments of the Government, uniform indulgence was shown by this Court and the relief was granted to those employees. According to the learned counsel, in pursuance to the direction of this Court, the Government has also implemented the same. In such view of the matter, he would contend that there cannot be any discrimination between two sets of employees in the matter of grant of minimum pro-rata pension as any difference, which is sought to be made, would only result in violation of Articles 14 and 16 of the Constitution of India. Such a course, according to the learned counsel for the applicants, is constitutionally impermissible and therefore, he prayed for dismissal of the Writ Petitions.

8. We gave our anxious consideration to the rival submissions of the parties and We find that there is considerable force in the contention of Sri.Balan Haridas, learned counsel appearing for the applicants in the Original Applications. In fact, he has also taken us through subsequent judgments passed by this Court in W.P.No.10501 of 2014 dated 04.07.2014 and Writ Petition Nos.19415, 23137, 24398 and 28598 of 2015 dated 05.02.2016, where similar benefit has been granted following the judgment of the Hon'ble Division Bench of this Court dated 30.04.2009 in W.P.No.39431 of 2009 in the matter of "R.Padmanabhan .vs. Central Administrative Tribunal, Madras & Others". The said decision was one of the citations found mentioned in the order passed by the learned Tribunal.

9. In view of the above position clearly emerging in favour of the employees, We do not think that We can arrive at any other conclusion except to follow the earlier decisions of this Hon'ble Court. We are also of the view that the learned Tribunal has passed a considered order, particularly following the orders passed by this Court and We do not find any infirmity in the final directions passed by the Tribunal, warranting interference at our hands. We, therefore, confirm the order passed by the learned Tribunal and dismiss all the Writ Petitions as devoid of merits and substance.

10. All the Writ Petitions are dismissed as devoid of merits and substance. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

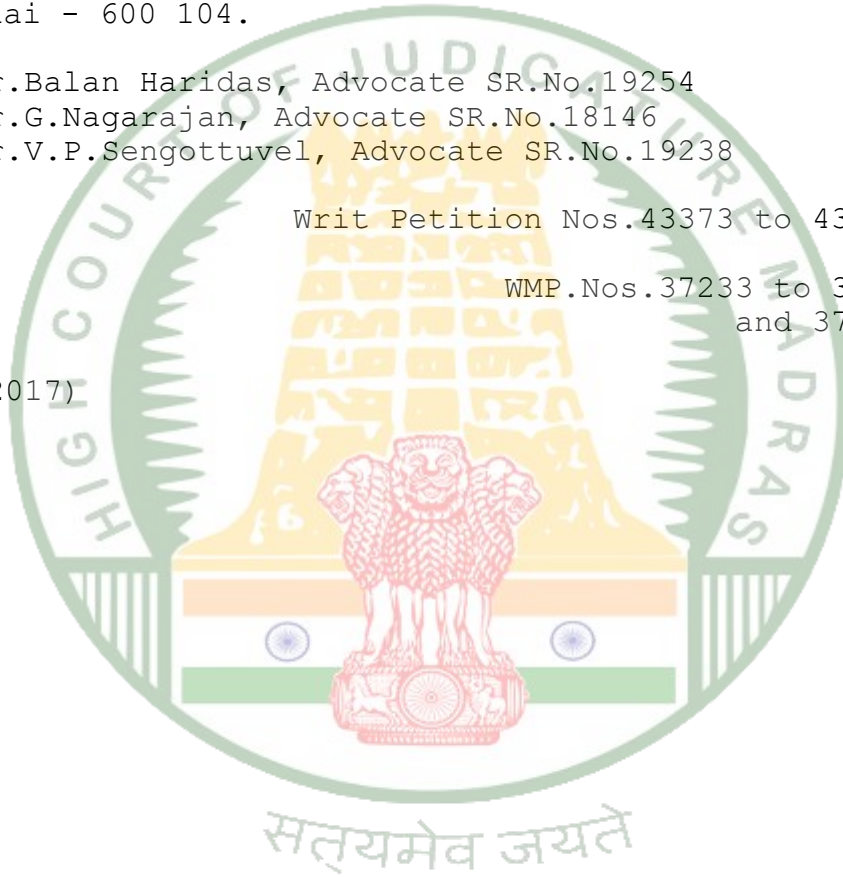
mra
To

The Registrar
Central Administrative Tribunal,
Madras Bench,
Chennai - 600 104.

+1cc to Mr.Balan Haridas, Advocate SR.No.19254
+1cc to Mr.G.Nagarajan, Advocate SR.No.18146
+1cc to Mr.V.P.Sengottuvel, Advocate SR.No.19238

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NR II (CO)
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