IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 02.03.2017

Coram

The Honourable Mr.Justice K.K.SASIDHARAN
and
The Honourable Mr.Justice V.PARTHIBAN

W.P.Nos.44371 to 44373 of 2016
W.M.P.Nos.38245 to 38246 of 2016

1 Union of India Rep by
Secretary Ministry of Youth Affairs &
Sports Government of India Shastri Bhavan
New Delhi-110 001

2 The Director General
Nehru Yuva Kendra Sangathan, 2nd Floor
Core IV, Scope Minar, Laxmi Nagar,
District Centre,
Vikas Marg, Delhi-110 092

3 The Zonal Director
Nehru Yuva Kendra Sangathan,
No.71, 2nd Main,
VGP Layout, Part III Palavakkam
Chennai-600 041

4 The District Youth
Co-ordinator Nehru Yuva Kendra,
252/134, 2nd Floor,
Arisipalayam Road Near Avvai
Market Salem-636 009 ...Petitioners in all Wp's

versus

1. S.Guru .. 1st respondent in
W.P.No.44371 of 2016

2. R.Chandran .. 1st respondent in
W.P.No.44372 of 2016

3. M.Mallika .. 1st respondent in
W.P.No.44373 of 2016

4. The Registrar
Central Administrative Tribunal,
Chennai .. 2nd Respondent in
all Writ Petitions

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Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the order of 2nd respondent in O.A.Nos.310/01491/2014, 310/01492/2014 and 310/01493/ 2014 dated 05.04.2016 and quash the same.

For Petitioners : Mr.M.Kishore Kumar

For Respondents : Mr.R.Priya Kumar for R1

COMMON ORDER

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

These Writ Petitions have been filed against the order passed by the learned Central Administrative Tribunal (in short, 'the Tribunal'), Madras Bench, dated 05.04.2014 in O.A.Nos.310/01491/2014, 310/01492/2014 and 310/01493/ 2014, allowing the original applications filed by the first respondent herein.

2. For the sake of clarity, the parties are described as 'applicants' and 'respondents' as arrayed before the Tribunal.

3. The Applicants have approached the Tribunal seeking the following relief:

> "To quash the impugned order dated 8.5.2014 and to direct the respondents to grant pensionary benefits to the applicants as being enjoyed by other employees of NYKS including Youth Coordinators, Regional Coordinators, Accountant-cum-Typists, Group D employees at par with Central Government employees on their retirement within a time frame."

4. According to the applicants in O.A.Nos.491 and 493 of 2014, they are retired employees of Nehru Yuva Kendra Sangathan (in short, 'NYKS'), the respondent organization. The applicant in O.A.No.492 of 2014 is a widow of deceased employee who retired from the same organization. The said employees originally joined NYKS as Peon-cum-Chowkidar and they were treated as Central Government employees. While so, the Government formed NYKS, a registered Society, wherein, the employees were absorbed and separate service Rules were framed for them. According to the newly formed service Rules, no pension benefits were made admissible to the NYKS employees. However, only EPF facilities were extended to them. The case of the applicants was that several retired employees of NYKS preferred Original Applications before the Central

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Administrative Tribunal, Ernakulam, Hyderabad and Chennai Benches, wherein orders were passed holding that the applicants therein were entitled to pensionary benefits on par with the Central Government employees. However, the present applicants were not parties to those proceedings. The said orders passed by the various Benches have been upheld by the respective High Courts and for confirmation of the same, the matter was taken before the Hon'ble Supreme Court by the organization, but the organization was unsuccessful before the Supreme Court. As such, pensionary benefits which were extended to the employees of NYKS, became payable and the issue became no more res integra.

5. Per contra, it was contended on behalf of the respondents that the autonomous bodies, like the respondent organization cannot be treated as State and the benefits granted to the Central Government employees, cannot be automatically extended to the employees of autonomous body. In support of their contention, a decision of the Hon'ble Supreme Court reported in "(2015) 5 SCC 333 (T.M.Sampath versus Ministry of Water Resources)" and also other decisions were cited.

6. According to the respondents, as per the decision of the Hon'ble Supreme Court, the employees of the autonomous bodies like the respondent organization, cannot be granted the relief of pensionary benefits and they cannot be treated on par with the Central Government employees as held by the Hon'ble Supreme Court.

7. After taking note of the submissions of the parties, the Tribunal had in extenso, extracted the relevant portion of the order passed by Hon'ble Supreme Court relied upon by the respondents and also other decisions of the Hon'ble Supreme Court and the orders passed by the Central Administrative Tribunal, Hyderabad Bench.

8. After adverting to those decisions, the learned Tribunal had come to the conclusion that in respect of the same organization, several Benches of the Tribunal had held that the pension was payable to the employees of the respondent organization, namely, NYKS and the Tribunal cannot take a different decision in respect of the same employees of the same organization. The legal reasoning has been spelt out in para 9 of the impugned order, by the Tribunal, which is extracted below:

> "9. It is an admitted fact before this forum that the litigation concerning the employees of NYK spiralled up to the Hon'ble Supreme Court and the Hon'ble Apex Court did not interfere with the findings of the various Benches of the Central

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> Administrative Tribunal but upheld by the respective High Courts orders confirming the orders of the CAT Benches and in such a case, the respondent concerned cannot try to wriggle out its liability to pay pension. Art. 14 of the Constitution would mandate that equals should be treated alike. I would like to point out that as many as three Benches of the Central Administrative Tribunal and the corresponding Hon'ble High Courts and the Hon'ble Supreme Court upheld that the employees of NYK are entitled to pension on par with the Central Government employees. In such a case, I have no hesitation to hold that the applicants are entitled to pension and family pension as the case may be, and accordingly these OAs are disposed of directing the respondent to extend the pensionary benefits the applicants within a time frame of three months from the date of receipt of a copy of this order. No costs.

9. Against the above direction, the present Writ Petitions have been filed.

10. Mr.K.Kishore Kumar, learned counsel appearing for the petitioners would argue that the orders passed in the earlier Original Applications by the different Bench of the learned Tribunal and the respective High Courts and the Hon'ble Supreme Court are to be construed as judgment in personam and the same cannot be ipso facto be applied to the present applicants. When confronted with the question as to how the claim of the present applicants was different from the other beneficiaries of the orders passed by the Tribunal, High Courts and the Hon'ble Supreme Court, the learned counsel appearing for the petitioners was unable to point out any difference in the claim of the first respondents/applicants.

11. On the other hand, Sri R.Priyakumar, learned counsel appearing for the first respondents/applicants would reiterate his submissions that were put forth before the Tribunal and would emphasize the fact that the applicants before this Court were identically placed as that of others and they cannot be treated differently in the matter of granting pensionary benefits particularly when the matter has been settled up to the Hon'ble Supreme Court in favour of the employees.

12. We have given our anxious consideration to the submissions of the parties and the pleadings and materials on record.

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13. We do not find any iota of difference as between the claim of the present applicants and the other employees who got the benefit of the orders earlier by the different Benches of the Tribunal which were confirmed by the respective High Courts and the Hon'ble Supreme Court and such is the case, we do not think that the present applicants can be treated differently and we can render a different decision on the claim of the applicants. We are unable to persuade omaluer to the submissions made on behalf of the learned counsel for the respondents that the earlier orders passed by the learned Tribunal, respective High Courts are to be treated as judgment in personam. When similarly placed persons have been bestowed with the benefit of pensionary benefits by the orders of the Court, the present applicants ought to have been extended the same benefit without driving them to Court of law for getting the same relief. Therefore, we do not find any merit in the contention submitted by the learned counsel for the respondents.

For the foregoing reasons, the Writ Petitions are dismissed as devoid of merits and substance. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1 The Registrar,
Central Administrative Tribunal,
Chennai.

+3cc to Mr.Periya kumar, Advocate, S.R.No.13495 to 13497
+3cc to Mr.Kishore kumar, Advocate, S.R.No.13989 to 13991

W.P.Nos.44371
to 44373 of 2016

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