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

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.29613 of 2017

01.09.2017

Between:

The Union of India,
represented by the Principal Accountant General (A&E),
Hyderabad and others

..Petitioners

and

A.Nageswara Rao

..Respondent

Counsel for the petitioners: Mr.B.Narasimha Sarma,
standing counsel for the Union of India

Counsel for the respondent: --

The Court made the following:

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

This writ petition is filed for issue of *certiorari* to quash order, dated 29.11.2016, in O.A.No.021/1237 of 2015 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short 'the Tribunal').

2. We have heard Mr.B.Narasimha Sarma, learned standing counsel for Union of India appearing for the petitioners and perused the record.

3. The relevant facts have been set out in the order of the Tribunal. Hence, we do not propose to repeat all those facts. It will suffice to observe that after working in the office of the Accountant General, Andhra Pradesh, the respondent was transferred on deputation/foreign service to Hindustan Paper Corporation Limited, which is a wholly owned Government of India Public Sector Undertaking. He was absorbed in the said Corporation on 11.11.1982 with pro-rata pensionary benefits for the service of 10 years and 7 months rendered by him in the Government of India. Post his retirement, his minimum pension was determined at Rs.3,500/- per month from 01.01.2006. The respondent, however, made a claim for fixation of his pension at Rs.9,330/- per month being 50% of Rs.18,660/-, which was the pay being drawn by the Assistant Accounts Officer/Audit Officer. As his pension was not revised, he was constrained to approach the Tribunal by filing the aforementioned O.A. On a detailed consideration of the rival pleadings of the parties, the Tribunal has rejected the plea of the respondent that he retired from service as a Section Officer and that consequently, he was not eligible for the minimum pay scales in the pay band of Rs.9,300-34,800/- with grade pay of Rs.4,800/-. However, the Tribunal has taken into consideration sanction of pro-rata pension to the respondent in pursuance of order, dated 01.01.2010, in O.A.No.230 of 2009 with effect from 12.11.1982.

The Tribunal also relied upon various judgments of its Coordinate Benches, its Full Bench judgment in O.A.No.665 of 2010 as upheld by the respective High Courts and also the decision of the Hon'ble Supreme Court while dismissing the Special Leave Petitions and laying down the dictum that pension of pre-2006 pensioners shall not be less than 50% of the minimum of the pay in the pay band and the grade pay without any proportionate reduction in the minimum revised pension for those who rendered less than 33 years of qualifying service. The Tribunal has, accordingly, held that the respondent is entitled to have his pension fixed at 50% of the minimum pay in the pay band and grade pay applicable to the Auditor in VI Central Pay Commission (CPC) and that as the pay applicable to the Auditor as per VI CPC being Rs.5,200-20,200/- plus grade pay of Rs.2,800/-, the respondent is entitled for revision of his pension in accordance therewith along with payment of arrears from 01.01.2006.

4. Mr.B.Narasimha Sarma, learned standing counsel, has argued that though the pay band of Rs.5,200-20,200/- indicated by the Tribunal is correct, it has erroneously taken Rs.2,800/- as the grade pay of the respondent instead of taking Rs.2,400/- as his grade pay fixed following VI CPC. He has, however, submitted that the differential amount if grade pay is reduced to Rs.2,400/- would be only Rs.665/-. This means, if the petitioners' plea is accepted, the respondent's pension would be fixed at Rs.4,920/- instead of at Rs.5,585/-, which he would get on the strength of the order of the Tribunal. In our opinion, the view taken by the Tribunal does not suffer from any patent error. The financial benefit that may accrue to the respondent being very meager, we are not inclined to interfere with the impugned order.

5. For the aforementioned reasons, the Writ Petition is dismissed.

6. As a sequel to dismissal of the Writ Petition, W.P.M.P.No.36851 of 2017 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

01st September, 2017
GHN