

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

and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Appeal No.813 of 2017

Date: 01.08.2017

Between:

Hindustan Cables Ltd., (Govt. of India Undertaking)
Rep. by its Chairman & Managing Director,
9, Elgin Road, Calcutta and 2 others

... Appellants

and

G.Ramamohan Rao and 5 others

... Respondents

Counsel for the Appellants: Mr.B.Shiva Kumar

Counsel for respondent Nos.1 to 5: Mr.Mahesh for Mr.M.Sudheer Kumar

**Counsel for respondent No.6: Sri B.Narayana Reddy,
Asst. Solicitor General**

The Court made the following:



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

This Writ Appeal is filed against Order, dated 28-12-2016, in WP.No.8314 of 2004.

We have heard Mr.B.Shiva Kumar, learned Counsel for the appellants, and Mr.Mahesh, learned Counsel representing Mr.M.Sudheer Kumar, learned Counsel for respondent Nos.1 to 5.

Respondent Nos.1 to 5 were employees of appellant No.1. They were given retirement under a Voluntary Retirement Scheme floated by appellant No.1 with effect from 31-03-1997. A few years later, appellant No.1 has issued Office Order bearing No.CORP/PERS/64/2001, dated 31-05-2011, revising the pay scales of its executives with effect from 01-01-1997. Clause 8.3 of the said Office Order reads as under:

“8.3 Payment to the executive who have ceased to be in the service after 1.1.1997

All executives who were on the rolls as on 1.1.1997 but subsequently ceased to be in services on account of superannuation, resignation, VRS, termination, death, etc., would be eligible for the benefit of revised scale of pay to the period they were in employment of the Company.”

The petitioners have filed WP.No.8314 of 2004 with the grievance that the revised pay scales were made applicable to all

the executives, who were on rolls as on 01-01-1997 and that though they have continued in service till 31-03-1997, they were not extended the said benefit. It appears, no counter-affidavit was filed on behalf of the appellants.

By the order under Appeal, the learned Single Judge has allowed the Writ Petition by placing reliance on Order, dated 11.11.2003, in WP.No.24197 of 2002, filed by similarly situated persons, Order, dated 05-11-2009, in Writ Appeal No.919 of 2004 dismissing the said Writ Appeal and confirming the Order passed in the aforementioned Writ Petition and also Order, dated 29.03.2016, in SLP (C) No.9146 of 2010 whereby the Supreme Court has declined to interfere with the aforementioned orders of this Court.

The learned Counsel for respondent Nos.1 to 5 submitted that out of 38 employees, who filed WP.No.24197 of 2002, difference of pay scales was paid to 32 employees by applying the revised pay scales, which submission is not denied by the learned Counsel for the appellants. The only submission of the learned Counsel for the appellants is that, as per Clause 3 of the Annexure to the Presidential Directive Order, dated 23-05-2001, the revised pay scales and arrears will be paid only if appellant No.1 is able to

clear off the arrears of statutory dues first and that the said aspect was not considered either in the Writ Petition filed by the respondents or in the previous Writ Petitions.

As noted herein before, the appellants have not filed a counter-affidavit and contested the Writ Petition. This apart, though they have seriously resisted the previous Writ Petition *i.e.*, WP.No.24197 of 2002, and vigorously pursued the matter up to the Supreme Court, they did not succeed in convincing either this Court or the Supreme Court in declining relief to the persons, who were similarly situated to the respondents in this case. Having allowed the order in WP.No.24197 of 2009 to attain finality and paid the differential amounts to all, except one of the petitioners in WP.No.24197 of 2002, it lies ill in the mouth of the appellants to resist the claim of the respondents. Such an act on the part of the appellants would amount to invidious discrimination. In this view of the matter, we do not find any merit in this Writ Appeal and the same is, accordingly, dismissed, however, clarifying that as the respondents have taken voluntary retirement on 31-03-1997, the benefits falling under the revised pay scales must be confined only for the period between 01.01.1997 and 31.03.1997.

As a sequel to dismissal of the Writ Appeal, WAMP.No.1590 of 2017, filed by the appellants for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 1st August, 2017
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