

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1243 OF 2005

Gurudas Vaman Katdare & Anr.	...Petitioners
Versus	
The Union of India & Ors.	...Respondents

**WITH
WRIT PETITION NO. 1247 OF 2005**

Smt. Vaishali Ajay Shinde & Anr.	...Petitioners
Versus	
The Union of India & Ors.	...Respondents

None present for Petitioners in both Petitions.
Mr. Rui Rodrigues with Mrs. Neeta Masurkar for Respondents
- Union of India.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 26 APRIL 2018

ORAL JUDGMENT :

1] On 12th April 2018, we made the following order:

"1. None appears for the petitioner. In order to give one last chance to the petitioners, S.O. to 13th April, 2018."

2] Thereafter, on 13th April 2018, we made the following order:

“1. Learned counsel Mr. Rui Rodriques along with Mrs. Neeta Masurkar appears for all the respondents, however, none appears for the petitioners. Yesterday also, none had appeared for the petitioners. In order to give one last chance, matters are adjourned to 19.4.2018. It is made clear that if on that day even if none appears for the petitioners, matters may be disposed of.”

3] Today, when the matters are called out, neither the petitioners nor their Advocates are present. However, as indicated earlier, we proceed to dispose of these petitions on merits.

4] These petitions challenge the judgment and order dated 8th July 2004, made by the Central Administrative Tribunal (CAT) in Original Application No. 949 of 2002, writ petition no. 1243 of 2005 has been instituted by two of the applicants in OA No. 949 of 2002 and writ petition no. 1247 of 2005 has been instituted by two other applicants in OA No. 949 of 2002.

5] The petitioners, or for that matter the original applicants in OA No. 949 of 2002 were Data Entry Operators

and had prayed for directions to the respondents to give them the pay-scale of Rs.1350-2200 in terms of the recommendations of the Fourth Pay Commission with effect from the dates of their initial appointments as Data Entry Operators.

6] The respondents had pointed out before the CAT that the issue raised in the OA was *sub judice* before this Court and this Court had only ordered that if an employees give an undertaking in the standard form to return the benefit, which may also be recoverable from their terminal benefits, then, the respondents may consider giving such employees the benefit of higher pay-scale. Taking into consideration the circumstance that the same issue was pending before this Court, the CAT, dismissed the OA.

7] At this stage, there is no necessity to go into the issue as to whether the CAT was justified in dismissing OA merely on the ground that the issue involved in the OA was *sub judice* before this Court. At least *prima facie*, we are of the opinion that the CAT could have deferred the hearing in the OA until the issue was decided one way or the other by this

Court rather than dismiss the OA as not maintainable. However, it appears, that events, have already overtaken us.

8] Mr. Rodriques, the learned counsel for the respondents points out that the issues raised in the present writ petitions were considered in great details by the Hon'ble Supreme Court in ***Civil Appeal No. 10862 of 2014, Secretary, Department of Personnel, Public Grievances & Pension & Anr. vs. T.V.L.N. Mallikarjuna Rao*** and other connected matters, vide judgment and order dated 9th December 2014. Upon due consideration, the Hon'ble Supreme Court, has held that the claim of the Data Entry Operators to the higher pay-scale of Rs.1350-2200 with effect from 1st January 1986 or thereafter is not justified. At paragraph 32, the Hon'ble Supreme Court has held as follows :

"32. In view of the findings recorded above we hold that Data Entry Operators Grade-A are not entitled for Scale of pay of Rs. 1350-2200 w.e.f. 1.1.1986 or thereafter merely on the basis of their qualifications or for the fact that they have completed their period of requisite service. We further hold that any decision rendered by any Tribunal or any High Court contrary to our decision is wrong. Further in view of the reasons and findings recorded above while we hold that the respondents are not entitled to the

benefit as they sought for before the Tribunal or the High Court, all the impugned orders passed by the CAT Benches and the High Courts in favour of the respondents being illegal are set aside.”

9] In view of the aforesaid, there remains no good ground to interfere with the impugned judgment and order made by the CAT. Possibly, it is for this reason that the petitioners have also lost interest in pursuing the present petitions.

10] For the aforesaid reasons, these petitions are dismissed. Rule is discharged. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA