

4] Normally, we are extremely reluctant to interfere with the interim orders made by the Tribunals. However, in the present case, Mr. Sonawane, learned counsel for the petitioners, has pointed out that grant of interim relief for payment of pension with effect from 1.1.2011, virtually amounts to grant of final relief to the respondent.

5] Mr. Sonawane points out that by order dated 20.02.2015, the penalty of compulsory retirement came to be imposed upon the respondent. The respondent has questioned such penalty in O.A. No. 842 of 2016. It is only, if and when such penalty is ultimately set aside by the CAT that some occasion will arise for payment of full pension with effect from 1.11.2011. Mr. Sonawane, therefore, submits that such relief could never have been granted to the respondent at the interim stage. Mr. Sonawane submits that grant of such interim relief, therefore, warrants interference.

6] Mr. V.A. Nagrani, learned counsel for the respondent, submits that the impugned judgment and order was granted because the CAT was satisfied that the order dated

20.2.2015 imposing penalty of compulsory retirement upon the respondent was unjustified. He submits that at the highest the payment of such pensionary benefit can be made subject to final decision in O.A. No. 842 of 2016. Mr.Nagrani submits that since there is no jurisdictional error, this petition may be dismissed.

7] The rival contentions now fall for our determination.

8] According to us, the CAT was not justified in making the impugned order which has the effect of grant of final relief at the interim stage. The order, nowhere records any satisfaction that the penalty of compulsory retirement imposed upon the respondent was *ex-facie* unjustified.

9] In fact, upon reading the impugned order in its entirety, we find that the CAT, in fact may have intended, by way of interim relief, to direct the petitioners to pay pension and other retiral benefits to the respondent in accordance with the petitioners' own order dated 20.2.2015. However, it appears that in the operative portion of the impugned order, this aspect was not stated clearly and instead, the

direction for payment of pension with effect from 1.11.2011 without prejudice to the rights and contentions raised in the O.A. came to be rejected.

10] The operative portion of order dated 20.2.2015, by which, penalty of compulsory retirement came to be imposed upon the respondent reads as under:

"ORDER

I, Priyanka Das, Sr. Supdt. of Post Offices, Thane Central Division, Thane 400601 by virtue of powers conferred upon me vide Rule-12 of CCS (CCA) Rules, 1965 order that Smt. M.S.Pant, SPM Manpada PO is compulsorily retired from Govt. service with immediate effect and further that by virtue of provisions made in the Rule 40 of Pension Rules 1972, it is further ordered that Smt. M.S. Pant, SPM Manpada PO would be eligible for only 85% of due DCRG (Death Cum Retirement Gratuity) amount admissible to her on the date of her compulsory retirement."

11] Thus, even if the aforesaid order dated 20.2.2015 is ultimately upheld by the CAT, the petitioners, will be bound to pay to the respondent the pension and other benefits indicated in the order dated 20.2.2015. Therefore, there can be no justification on the part of the petitioners in not paying the respondent pension and other benefits consistent with its own order dated 20.2.2015. The interests of justice will, therefore, be met, if the impugned order is

modified and the direction for payment of pension and other pensionary benefits with effect from 1.11.2011 is substituted with direction for payment of pension and other pensionary benefits in accordance with the petitioners' own order dated 20.2.2015. We order accordingly. The impugned order made by the CAT shall, therefore, stand modified accordingly.

12] We make it clear that acceptance of such pension or pensionary benefits by the respondent shall be without prejudice to her rights and contentions as urged in O.A. No. 842 of 2016.

13] The pension and pensionary benefits in terms of order dated 20.2.2015 to be paid to the respondent as expeditiously as possible and in any case within a period of six weeks from today.

14] Rule is made partly absolute in the aforesaid terms. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Dinesh
Sadanand
Sherla

Digitally signed by
Dinesh Sadanand
Sherla
Date: 2018.07.18
18:38:44 +0530