

IN THE HIGH COURT OF JUDICATURE AT MADRAS

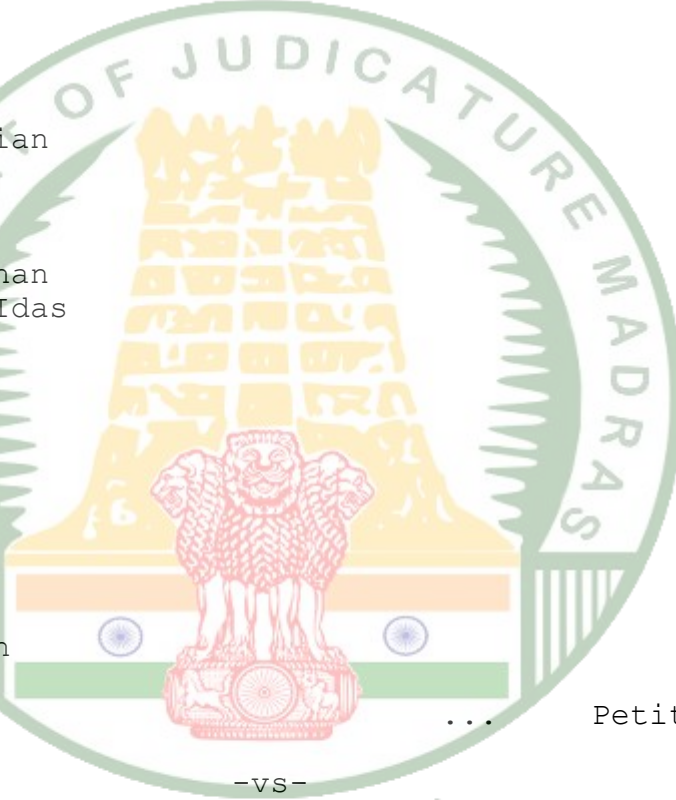
DATED : 05.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.42611 of 2016

1.C.Someswaran
2.V.Sethuraman
3.K.Nagarajan
4.C.Srinivasan
5.C.V.Ramasubramanian
6.S.Devarajan
7.S.Srinivasan
8.G.R.Bhasker Rao
9.Lalitha Viswanathan
10.C.Krishnachand Idas
11.S.Narayanan
12.Y.Issac
13.M.Natarajan
14.R.Doraiswamy
15.S.Muralidharan
16.S.Ramaratnam
17.D.S.Viswanathan
18.S.Ramani
19.Sharada V.Kumar
20.K.M.Natha Ganesh
21.K.V.Seshadri
22.K.S.Raghavan



... Petitioners

-VS-

- 1.Union of India rep.by the
Secretary, Ministry of Defence (Finance),
South Block, New Delhi-110 011.
- 2.The Finance Secretary (Defence),
Ministry of Defence,
South Block, New Delhi-110 011.
- 3.The Controller General of Defence Accounts,
West Block-V, R.K.Puram, New Delhi-110 066.
- 4.The Controller of Defence Accounts (Navy),
No.1, Cooperage Road, Mumbai-400 039.

5. The Principal Controller of Accounts (Factories),
10A S.K.Bose Road, Kolkata-700 001.

6. The Controller of Defence Accounts,
506, Anna Salai, Teynampet, Chennai-600 018.

7. L.Narahari

8. The Registrar,
Central Administrative Tribunal,
City Civil Court Buildings,
High Court, Chennai-104.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the 8th respondent's order made in O.A.No.310/00237 of 2014 dated 06.07.2016, quash the same and to consequently direct the respondents 1 to 6 to revise and refix the pay of the petitioners herein on par with the 7th respondent at the stage of Assistant Accounts Officer (AAO) with effect from 03.07.1995 and to further revise and refix the pension and other pensionary benefits arising out of such fixation forthwith in so far as the petitioners are concerned.

For Petitioners :: Mr.L.Chandrakumar
For Respondents :: Ms.Sunitha Kumari,
Central Govt.Standing Counsel

ORDER
(Order of the Court was made by
RMT.TEEKAA RAMAN, J.)

This writ petition has been filed against the order passed by the eighth respondent Tribunal in O.A.No.310/00237 of 2014 dated 06.07.2016, dismissing the claim of the petitioners herein.

2.Before the Central Administrative Tribunal, the claim of the petitioners herein is that one of their junior by name L.Narahari, the seventh respondent herein, has been promoted and was given the higher pay fixation than that of the petitioners. The petitioners filed an application before the Tribunal in O.A.No.310/00237 of 2014 praying to direct the official respondents to revise and refix the pay of the petitioners on par with the seventh respondent at the stage of Assistant Accounts Officer with effect from 03.07.1995 and for the consequential relief, on the ground that different benches of the Tribunal as well as a Division Bench of this Court had directed grant of stepping up of pay to the seniors who were similarly placed like that of the petitioners herein.

3.The Tribunal relied upon the judgment of the Hon'ble Kerala High Court in OP.(CAT)No.446 of 2012(Z) dated 09.07.2015, and dismissed the application stating that the said benefit could not be extended to the petitioners herein on the ground that there was a delay and that the point of law had not been settled in their favour.

4.The learned counsel for the petitioners has submitted that the Original Application was dismissed by the Tribunal on an erroneous view of law and fact and also without proper appraisal of the settled position on the issue. The learned Central Government Standing Counsel appearing for the respondents has submitted that the order passed by the Tribunal is in accordance with law and the same does not require any interference.

5.Heard the learned counsel on either side and perused the materials available on record.

6.It appears that there was an unexplained delay of 19 years in filing the original application. Further, it is seen that reliefs granted to other persons by various Tribunals, were given considering the facts and circumstances of each and every case and hence the same cannot be applied to the case on hand. Further, no point of law had been decided in their favour. In the decision of the Hon'ble Supreme Court in State of U.P. v. Arvind Kumar Srivastava, reported in (2015) 1 SCC 347, it has been held as follows:

"22.1.The normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

22.2.However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of

similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim."

Here is the case which falls under this category.

7. In view of the above stated circumstances, we concur with the view expressed by the Hon'ble Kerala High Court in OP.(CAT) No.446 of 2012(Z) dated 09.07.2015, which has been followed by the Tribunal while rejecting the claim of the petitioners herein.

8. In the result, the writ petition stands dismissed. No costs.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

KM

To

1. The Secretary to Government,
Government of India,
Secretary, Ministry of Defence (Finance),
South Block, New Delhi-110 011.
2. The Finance Secretary (Defence),
Government of India,
Ministry of Defence,
South Block, New Delhi-110 011.
3. The Controller General of Defence Accounts,
West Block-V, R.K.Puram, New Delhi-110 066.
4. The Controller of Defence Accounts (Navy),
No.1, Cooperage Road, Mumbai-400 039.
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6. The Controller of Defence Accounts,
506, Anna Salai, Teynampet, Chennai-600 018.

7. The Registrar,
Central Administrative Tribunal,
City Civil Court Buildings,
High Court, Chennai-104.

+1 CC to Ms. Sunitakumari, Advocate sr 893.

+1 CC to Mr.L. Chandrakumar, advocate sr 960.

W.P.No.42611 of 2016

SP(22/01/2018)



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