

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 19697 of 2017
and W.P.No. 4000 of 2017

W.P.No.19697 of 2017:

1. Union of India
Rep. By The General Manager
Southern Railway
Park Town,
Chennai - 600 003.
2. The Divisional Personnel Officer
Southern Railway,
Chennai - 600 003.Petitioners

Vs.

1. N. Ramaswamy
2. The Registrar
Central Administrative Tribunal
Chennai.Respondents

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records from the Central Administrative Tribunal, Chennai in O.A. No. 310/412 of 2016 and quash the impugned order dated 25.01.2017.

W.P.No.4000 of 2017:

R. Sitaraman ... Petitioner

Vs.

1. Union of India
Rep. By The Secretary,
Ministry of Railways,
Government of India, New Delhi

2. The General Manager,
N.S. Road,
Eastern Railway,
Kolkata - 1
3. The Financial Advisor
& Chief Accounts Officer,
N.S. Road, Eastern Railway,
Kolkatta - 1
4. The Registrar
The Central Administrative Tribunal,
Madras Bench, Chennai - 104. ... Respondents

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records from the Central Administrative Tribunal, Chennai in O.A. No. 997 of 2013 and quash the impugned order dated 26.08.2014 and consequently direct the respondent 1 to 3 to revise and re-fix the petitioners family pension at not less than 50% of the minimum with reference to pay Bank II i.e. Rs.9300-34800 plus Grade Pay Rs.4200/- w.e.f. 01.01.2006 as prescribed in the relevant mandatory provisions.

For Petitioners : Mr. P.T. Ramkumar
in W.P.No.19697/2017
and respondents 1 to 3
in W.P.No.4000/2017

For 1st Respondent : Mr. L. Chandrakumar
in W.P.No.19697/2017
and petitioner in
W.P.No.4000/2017

COMMON ORDER
(Order of the Court was made by M.M.SUNDRESH, J.)

W.P.No.19697 of 2017 is filed by the Railways challenging the order of the Tribunal dated 25.1.2017 by which O.A.No.310/00412/2016 filed by the first respondent with respect to fixation of pay scale was allowed, by placing reliance upon the judgment of the Division Bench of this Court.

2. W.P. No.4000 of 2017 has been filed by the petitioner, who is similarly placed like the 1st respondent in W.P.No.19697 of 2017, being aggrieved over the dismissal of the Original Application on the same facts by the Tribunal.

3. In view of the above, we deem it appropriate to take both the writ petitions together and pass a common order.

4. The issue involved in both the writ petitions is with respect to fixation of pension for those employees who retired prior to 01.01.1996. The Tribunal was pleased to allow the writ petition in W.P. No.19697 of 2017 by placing reliance upon an order dated 2.8.2016 passed by a Division Bench of this Court in W.P.No.13207 of 2013 (R.Sethumadhavan v. Union of India and another). However, the other writ petition, being W.P.No.4000 of 2017, was dismissed on merit.

5. The learned counsel appearing for the petitioners in W.P. No.19697 of 2017 submits that the judgment which has been taken into account by the Tribunal has been set aside by the Apex Court in Union of India v R. Sethumadhavan and another, (2018) 4 MLJ 691 (SC).

6. The learned counsel appearing for the petitioner in W.P.No.4000 of 2017 submits that the aforesaid judgment is distinguishable on facts. A similar submission has also been made by the learned counsel appearing for the first respondent in W.P.No. 19697 of 2017.

7. The order under challenge in W.P.No.19697 of 2017 has been passed not on merits, but by merely relying on the order of the Division Bench of this Court, referred supra. However, other similar matters were dismissed on merits by the Tribunal.

8. In such view of the matter, we are of the view that it would be appropriate to set aside the orders passed by the Tribunal in both the cases and remand the matter for fresh consideration on merits and in accordance with law. While doing so, the Tribunal should take into consideration the law laid down by the Apex Court in Union of India v R. Sethumadhavan and another (supra). The aforesaid direction would also imply the applicability of the aforesaid decision to the facts of the present case.

9. Accordingly, we set aside the orders passed by the Tribunal and consequently direct the Tribunal to hear the parties once again in the light of the observation made above and decide the matter on merits and dispose of the Original Applications within a period of eight weeks from the date of receipt of a copy of the order. We make it clear that all the issues - both on law and on facts are left open.

10. In the result, these writ petitions stand allowed. Consequently, the Tribunal is directed to consider the matter afresh in accordance with law in the light of the observations made above. No costs. Consequently, the W.M.P.No.21250 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

1. The Registrar
Central Administrative Tribunal
Chennai.
2. The Secretary,
Ministry of Railways,
Government of India, New Delhi
3. The General Manager,
N.S. Road,
Eastern Railway,
Kolkata - 1
4. The Financial Advisor
& Chief Accounts Officer,
N.S. Road, Eastern Railway,
Kolkatta - 1

+1cc to Mr. P.T. Ramkumar, Advocate sr.no.82799
+1cc to Mr. L. Chandrakumar, Advocate sr.no.82844

W.P. Nos.19697 and 4000 of 2017

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