

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.A. No. 165 of 2018

JUDGMENT:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ appeal is preferred against the order dated 15.12.2017 in Review W.P.M.P.No. 45742 of 2017 in W.P.No. 7541 of 2015 and the order dated 02.03.2017 in W.P.No. 7541 of 2015 which was modified on 07.04.2017.

The respondent filed the writ petition for the following substantive relief:-

“....declaring the impugned proceedings issued by the 5th respondent bearing reference No.HO/ PSD/ PEN/ 2013-14/ 219, dated 06.02.2015; proceedings bearing No. HO/ PSD/ PEN/ 2013-14/ 75, dated 13.05.2014; and proceedings issued by the 4th respondent bearing No. PSD/ EST/ 2012-13/ 79, dated 03.05.2012, as arbitrary, discriminatory and violative of Articles 14 and 21 of Constitution of India, contrary to Joint Note dated 27.04.2010 and Circular dated 20.08.2010, null and void and consequently direct the respondents to grant pension and also pay leave encashment and traveling allowances in the interest of justice.”

The learned Single Judge, vide order dated 02.03.2017, directed the appellants to grant pension and leave encashment in favour of the respondent in terms of the decision taken by this Court in Andhra Bank, Hyderabad v. Y.Shivaji¹. Being aggrieved, the appellants filed Review

¹ 2017(1) ALD 120 (DB)

W.P.M.P.No. 45742 of 2017 and the same was disposed of by order dated 15.12.2017 by recording as under:

“It is not in dispute that the writ petition was disposed of after notice to the counsel for the respondent bank/ review petitioners herein and after obtaining instructions from the respondent-bank, the writ petition was disposed of as covered by two decisions referred to in the order concerning leave encashment and pension respectively. On the face of it, there is no error committed by the Court in disposing of the writ petition. As learned counsel for the writ petitioner rightly submitted, the grounds urged seeking review of the order are not maintainable; the review of the earlier decision can be undertaken only in parameters of Order XXXVII Rule 1 are satisfied. In the instant case, no error is pointed out by the learned counsel for review petitioners to undertake review on the earlier decision. It is also appropriate to note that against the decision of this Court in W.P.No. 33775 of 2014 which was one of the writ petitions disposed of by a common judgment dated 09.11.2016, respondent-Andhra Bank preferred W.A.No. 640 of 2017 and following the earlier decision of another Division Bench in W.A.No. 902 of 2012, the Division Bench by judgment dated 13.09.2017 dismissed the writ appeal confirming the decision of the learned single Judge. Thus, the decision of the learned single Judge in W.P.No. 33775 of 2014 and batch has become final. The Division Bench judgments are binding on this Court. Merely because, against a decision rendered by Kolkata High Court, S.L.P. is pending, is no ground for reviewing the order. It is also appropriate to note that when the Division Bench has considered W.A.No. 640 of 2017 the fact that S.L.P. is pending before the Supreme Court against the decision of Kolkata High Court is not brought to the notice of the Division Bench and the said decision of the Division Bench is subsequent to the decision in W.A.No. 828 of 2017. No ground is made out to review the decision in the writ petition No. 7541 of 2015 dated 02.03.2017. Accordingly, Review W.P.M.P. is dismissed.”

It is admitted by the learned counsel for the appellants that in S.L.P.(C) No. 4115-4116 of 2017, the Supreme Court has granted stay by order dated 13.02.2017 against the decision taken by Kolkata High Court. Since the Apex Court has not taken any decision till date and in view of the facts and circumstances of the case and that this Court has already taken a similar view in case of Andhra Bank (cited 1 supra), we find no ground to interfere with the impugned orders passed by the learned Single Judge.

Hence, the writ appeal is devoid of merit and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

05.02.2018

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

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