

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12877 OF 2018

ORAL ORDER: (per Hon'ble Sri Justice Suresh Kumar Kait)

1. Vide the present petition, the petitioners challenged the order dated 5.10.2016 passed by the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.1430 of 2013.

2. The learned Counsel appearing on behalf of the petitioners submits that the learned Tribunal erred in relying on the order of the Tribunal in O.A.No.190 of 2016, which is based on the order of the High Court of A.P. in W.P.No.22042 of 2003, which is different from the order of the Apex Court dated 24.10.1989 in **S. Banerjee Vs. Union of India**, and that the learned Tribunal ought to have rejected the O.A. on the ground that in **S. Banerjee's** case, the D.A. already drawn by him upto 31.12.1985 was treated as pay for pension purpose whereas in other High Court and Tribunal cases, the instalment of D.A., which was not at all drawn by the applicants/respondents was ordered to be considered for pension benefits.

3. We note that in O.A.No.1430 of 2013, the respondent herein sought a direction to the petitioners herein to recalculate the DCRG and leave encashment amount of the respondent herein by taking into account the instalment of D.A. granted from 1.7.2009 to the Central Government employees and pay the difference in terms of judgments of the Tribunal dated 4.3.2005 in O.A.No.552 of 2003 and batch by setting aside the impugned letter No.PN-44/GH/2009-10/D-935 dated 5.8.2013 and Lr.No.Admin/3-535/09/D-719, dated 26.8.2013 issued by the petitioners herein.

4. We note that when the matter was taken up for consideration by the learned Tribunal, the learned Counsel for the respondent herein brought to the notice of the Tribunal the order passed by the Tribunal in O.A.No.190 of 2016, dated 11.3.2016. In paragraph No.3, the learned Tribunal has stated that counsel on both sides submits that the issue involved in O.A.No.190 of 2016 is identical, and both side counsel submits that the O.A. can be disposed of in terms of the said order.

5. Since the learned Tribunal has passed the order impugned with the consent of both the parties, we find no grounds to interfere with the same.

6. Accordingly, this Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE SURESH KUMAR KAIT

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 12th June, 2018.
Nn.

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12877 of 2018

(Oral order delivered by the Hon'ble Sri Justice Suresh Kumar Kait)



12/06/2018

Nn.