

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

W.P. No. 1835 of 2015

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 14.08.2014 in O.A.No. 1155 of 2013 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for brevity "the Tribunal") whereby the application filed by the petitioners against the proceedings dated 10.05.2013, 13.05.2013 and 30.05.2013 issued by the respondents placing the petitioners in the grade pay of Rs.4,600/- in Pay Band Rs.9300-34800/- by reverting the order and effecting the recovery thereto with effect from 01.01.2006 i.e. from June, 2013 after grant of Pay Band-2 Rs.9300-34800/- with Grade Pay of Rs.4,800/- in the year 2009 with effect from 01.01.2006 to the petitioners, has been dismissed.

We note, the petitioners sought the following main relief before the Tribunal:

- a) All the persons who have attained promotion and are drawing a Grade Pay of Rs.4,800/- from 01.01.2006 till date shall not be down graded and reverted back to previous Rs.4,600/- lower Grade Pay, the action is highly objectionable and unjustly taken;
- b) and the promotion to 4800 Grade pay and service rendered by the Technical Officer / Technical Officer "A" in the promotion grade from 01.01.2006 till date should be

protected and carried forward in all promotional and service benefits;

- c) The order dated 30.05.2013 stating the promotions and service rendered from 01.01.2006 to 2012 as infructuous is highly unsustainable. Following the withdrawal of 4,800/- Grade Pay, pray that all the affected personnel be placed in the next higher Grade Pay available in the existing pay structure that is 5400/- Grade Pay from the date of attaining the promotion respectively;
- d) Since this issue involves the Grade Pay and promotions, all the future assessments on regular basis from 2013 onwards shall be taken up after this issue is completely resolved for all the affected persons.”

It is not in dispute that the respondents did not file counter affidavit before the Tribunal, however, they produced copy of the order dated 21.03.2014 in O.A.No. 3593 of 2013 passed by the Central Administrative Tribunal, Principal Bench, New Delhi.

We note, in O.A.No. 3593 of 2013, the applicants therein sought the following substantive relief:

- a) To set aside or partially modify the impugned orders dated 10.05.2013, 13.05.2013, 30.05.2013 and 09.09.2013, copies placed as ANNEXURE A-1 (Colly), page No.22-31, to the extent they are adversely affecting the applicants herein and delaying their promotion to the next grade i.e. TO “B”;
- b) To set aside or partially modify the impugned orders dated 10.05.2013, 13.05.2013 & 30.05.2013, copies placed as ANNEXURE A-1 (Colly), page No. 22-31, in respect of the proceedings for recovery of over-payment from the applicants herein for the difference in reducing Grade Pay from Rs.4800 to Rs.4600 in TO “A” designation;
- c) To set aside or partially modify the impugned orders dated 30.05.2013 & 09.09.2013, copies placed as ANNEXURE A-1

(Colly), page No.25 – 31, in respect of the proceedings for Review Assessments within the feeder cadre or the erstwhile STA “C” / TO “A”/Equivalent designations in response to reduction in GP Rs.4800 to Rs.4600 in TO “A” designation;

- d) To direct the respondents to promote those erstwhile TO ‘A’/ GP Rs.4800 in the next grade, i.e. to ‘B’, retrospectively from the back date who actually got promotion to TO ‘A’/ GP Rs.4800 after completing residency period at STA ‘C’/ GP Rs.4600;
- e) To allow cost(s) to the applicants against the respondents, in the interest of justice;
- f) To pass such other order(s) and further reliefs which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.”

Even though the issues raised in O.A.No. 3593 of 2013 and O.A.No. 1155 of 2013 are different, the learned Tribunal has erroneously relied upon the order dated 21.03.2014 passed in O.A.No. 3593 of 2013. Consequently, we hereby set aside the order dated 14.08.2014 in O.A.No. 1155 of 2013 passed by the Tribunal and remand the matter to the Tribunal to decide it afresh after considering rival contentions of the parties.

Since counter is not filed before the Tribunal, the learned Additional Solicitor General of India seeks time to file fresh counter before the Tribunal and submits that he shall not solely rely on his case based on the counter affidavit filed before this Court. Inasmuch as after O.A.No. 1155 of 2013 was filed before the Tribunal the 1st respondent has issued

proceedings dated 17.03.2016, liberty is given to the petitioners to challenge the same by filing additional affidavit before the Tribunal, and thereafter, the respondents shall file counter affidavit and the learned Tribunal shall pass fresh orders on merit.

With the above observations, the writ petition is disposed of. No order as to costs.

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

11.06.2018

SURESH KUMAR KAIT, J

bcj

ABHINAND KUMAR SHAVILI, J

