

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.21213 of 2016

ORDER:

Heard the learned counsel for the petitioners and Sri K.Ramanuja Chari, learned counsel for the respondents.

2. Petitioners had worked as employees of 2nd respondent organization and had attained age of superannuation between 31-08-2011 and 30-04-2014. They seek in this Writ Petition balance of gratuity amount payable to them as per G.O.Ms.No.51 Finance (Pension-I) Department dt.01-04-2011 which had been adopted by the Managing Committee of the 2nd respondent through a resolution dt.06-08-2011.

3. Under the said resolution, the Managing Committee approved the agenda and directed the Managing Director of 2nd respondent to implement the scheme as per IXth Pay Commission Recommendations vide G.O.Ms.No.51 dt.01-04-2011, and pursue with the Government for approval of Group Gratuity on par with co-employees.

4. Admittedly the petitioners had been paid on attaining age of superannuation only a sum of Rs.2,50,000/- towards gratuity. Vide G.O.Ms.no.51 dt.01-04-2011, the Government had agreed to give Government Employees retirement gratuity of Rs.8,00,000/- with effect from 01-04-2011.

5. Petitioners contend that this G.O. had been adopted in the Managing Committee Meeting on 06-08-2011 by 2nd respondent and therefore they are also entitled to the difference of Rs.5,50,000/- each towards gratuity having regard to the decision of the Managing Committee adopting G.O.Ms.No.51 dt.01-04-2011.

6. Petitioners submitted representation on 29-09-2014 for grant of said benefit, but when there was no action, they filed W.P.No.31084 of 2014 in this Court. On 17-10-2014, this Court directed respondents to consider said representation.

7. But on 12-12-2014, the 1st respondent rejected the said representation. It stated that resolution of Managing Committee dt.06-01-2010 adopting G.O.Ms.No.249 dt.04-10-2005 is prospective and they cannot get benefit of enhanced gratuity from Rs.1.00 lakh to Rs.2.5 lakhs.

8. Challenging the same, this Writ Petition is filed.

9. Learned counsel for the respondents has placed before me G.O.Rt.No.73 Youth Advancement, Tourism & Culture (YS) Department dt.01-02-2018 wherein the proposal of the Managing Director of 2nd respondent for enhancement of the gratuity payable to regular employees of 2nd respondent from Rs.2,50,000/- to Rs.8,00,000/-, consequent to implementation of 2010 Revised Pay Scales to the employees of the 2nd respondent, has been approved.

10. The learned counsel for the respondents however contends that G.O.Rt.No.73 dt.01-02-2018 is prospective in operation and applies only to employees who are in service of 2nd respondent as on 01-02-2018 and not to the petitioners and relies on the decision in **The Union of India Vs. All India Services Pensioners Association and another¹**, in support of his contention.

11. I am unable to agree with the said contention. No doubt, the Supreme Court in the above decision held that all Government orders are prospective in operation, but that principle would have no application in the present case for the reason that the Managing Director of 2nd respondent had written to 1st respondent to grant approval of his proposal to increase amount of gratuity payable from Rs.2.50 lakhs to Rs.8.00 lakhs to employees of 2nd respondent who had got the benefit of implementation of 2010 Revised pay Scales. The said Revised Pay Scales admittedly came into effect on 06-04-2011 and all the petitioners admittedly retired thereafter.

12. Therefore, once the 1st respondent had granted approval vide G.O.Rt.No.73 dt.01-02-2018 of the proposal of the Managing Director of 2nd respondent, the same would apply to all the employees of 2nd respondent who had got the benefit of the 2010 Revised Pay Scales which were implemented from 06-04-2011. The benefit of the G.O. cannot be restricted to only such of those employees who are in service as on 01-02-2018. If that were to be intention of the 1st

¹ AIR 1988 S.C. 501

respondent, the 1st respondent would have specifically stated in the G.O. that only such of those employees of 2nd respondent who are in service as on 01-02-2018 would get the said benefit.

13. There is no reference in impugned order dt.12-12-2014 to G.O.Ms.No.51 dt.01-04-2011 or to resolution dt.06-04-2011 of 2nd respondent. G.O.Ms.No.249 dt.04-10-2005 'mentioned' therein has no relevance since petitioners were already given gratuity of Rs.2.5 lakhs. So the said order cannot be sustained.

14. Accordingly, the Writ Petition is allowed and the respondents are directed to pay to the petitioners the balance of gratuity of Rs.5,50,000/- each as per G.O.Ms.No.51 Finance (Pension-I) Department dt.01-04-2011 as adopted by the 2nd respondent on 06-04-2011 and as per G.O.Rt.No.73 Youth Advancement, Tourism & Culture (YS) Department dt.01-02-2018. Consequently Memo No.1314/SETWIN/2014 dt.12-12-2014 denying the petitioners' benefit of enhancement of gratuity is set aside. No costs.

15. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-02-2018

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