

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

W.P. No. 36425 of 2017

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 17.11.2015 in O.A.No. 1608 of 2013 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, whereby the application filed by the respondents, has been allowed directing the petitioners to consider the revised special pay of Rs.4,000/- granted vide letter dated 13.05.2009 for computing the pension benefits with effect from 01.01.2006 to the pre-2006 retirees by adding it to the minimum of the pay in the pay band i.e. Rs.54,700/- (44,700 + grade pay 10,000) already arrived as per the letter dated 28.01.2013 issued by the Government of India for Scientist 'G' in the pay scale of S-29 which corresponds to a minimum pension of Rs.29,350/- as has been allowed by the Principal Bench, CAT, New Delhi in O.A.No. 2461 of 2012 vide order dated 30.07.2013 in respect of similarly placed Scientist of Department of Space. Consequently, the petitioners are directed to issue revised PPOs. which are effective from 01.01.2006 to the members of the 1st respondent-Association who retired (pre-2006) with all consequential benefits.

The learned counsel for the petitioners submits that the Tribunal, Hyderabad Bench, while allowing the present application, has relied upon the order dated 30.07.2013 in O.A.No. 2461 of 2012 passed by the Tribunal, New Delhi which has been stayed by the High Court of Delhi.

The fact remains that vide presidential order dated 03.02.1999, the Special Pay of Rs.2,000/- p.m. was granted to Scientists in the pay scale of Rs.10,400/- - 22,400/- in lieu of a separate higher pay scale, after peer review. Since the said order was not implemented by the petitioners herein, the 2nd respondent filed O.A.No.184 of 2006 and the same was allowed vide order dated 29.03.2007. Being aggrieved by the same, the petitioners filed W.P.No. 267 of 2008, and this Court dismissed the same vide order dated 26.09.2008. Thereafter, the petitioners approached the Apex Court, however could not get any relief. Thereafter, the Under Secretary to Government of India, vide proceedings dated 13.05.2009, passed the following order:

“I am directed to refer to Ministry of Defence, Department of Defence Research and Development letter No. DRDO/ 86101-A/ V-CPC/ MPD/ D(R&D), dated 03.02.1999 and amendments thereof including Got.Letter No. DHRD/ 85101/ INCENTIVES/ VI-CPC/ C/ P/ 01/ 3678/ 2008/ D(R&D), dated 10 Oct., 2008 and to convey the sanction of the President to count the special pay of Rs.2000/- per month granted to Scientist in the pay scale of Rs.18400-22440 with effect from 01.01.1996 and special pay of Rs.4,000/- to Scientist in Pay Bank 4 (Rs.37400-67000) with Grade

Pay of Rs.10,000/- with effect from 01.01.2006 for pension and pensionary benefits.

This is in compliance with the judgment dated 29.03.2007 of Hon'ble Central Administrative Tribunal, Hyderabad in O.A.No. 184/ 2006 which has been upheld by Hon'ble A.P. High Court in W.P.No. 267 of 2008 and in respect of which Government of India's appeal has been dismissed by Hon'ble Supreme Court in SLP No. 4842/ 2009 leaving the question of law open. Accordingly, the order is subject to further legal recourse available to Government of India.

This issue is with the concurrence of Ministry of Defence (Fin/ R&D) vide their ID No.1585/ Addl. FA(R&D) dated 13.05.2009."

It is not in dispute that similarly situated employees have already got relief which has been denied by the petitioners to the respondents herein.

Since the petitioners have not succeeded in their efforts on this issue in their pursuit up to the Supreme Court, there is no point in denying grant of pension as already awarded in O.A.No. 184 of 2006 in favour of the respondents.

In view of the above, we find no ground to interfere with the order dated 17.11.2015 in O.A.No. 1608 of 2013 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad.

We note, the learned Tribunal directed the petitioners to comply with the order within three months from the date of receipt of a copy of the order. As of now, around three years have passed, therefore, we direct the petitioners to

comply with the order dated 17.11.2015 within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, 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.

SURESH KUMAR KAIT, J

26.06.2018

ABHINAND KUMAR SHAVILI, J

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