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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 114 OF 2019

Anant Y. Lotlikar
Traffic Controller, MACP-III,
Kadamba Transport Corporation Limited,
Panaji Depot, Panaji-Goa. .... Petitioner

Versus

1. Kadamba Transport Corporation Limited,
   through its General Manager,
   KTC Bus Depot, Panaji-Goa.

2. State of Goa
   thr. the Chief Secretary,
   Alto-Porvorim, Bardez, Goa. .... Respondents

Mr. Shivraj Gaonkar, Advocate for the petitioner.
Mr. Shivan Dessai, Advocate for respondent no.1.
Mr. D. Pangam, Advocate General along with Mr. S. Dhargalkar, Additional Government Advocate for respondent no.2.

Coram:- M.S. SONAK &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 3rd October, 2019

ORAL JUDGMENT (Per M. S. Sonak, J.)

Heard Mr. S. Gaonkar, Advocate for the petitioner, Mr. S. Dessai, learned Advocate for respondent no.1 and Mr. D. Pangam, learned Advocate General along with Mr. S. Dhargalkar, Additional Government Advocate for respondent no.2.

2. Rule. Rule is made returnable forthwith with the consent and at the request of learned counsel for the parties. The counsel appearing for the respective respondents waive service.

3. The petitioner has instituted this petition to seek a Writ of Mandamus to the respondents to release the benefit of 7th Pay Commission to the petitioner after declaring and setting aside the impugned order dated 29.11.2018 which according to the petitioner is arbitrary, illegal and unconstitutional.

4. On 12.06.2019, after hearing the learned counsel for the parties we made the following order:

> *"This writ petition concerns, grant of benefits of 7th Pay Commission to the Petitioner who is employed as Traffic Controller with the first Respondent Corporation.*
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> *2. The case of the Corporation is that it has per se no objection in principle to consider the recommendations of 7th Pay Commission vis-a-vis the petitioner but its hands are tied by the Government of Goa, Department of Finance Circular dated*

27.11.2017. The Circular advises Administrative Departments not to receive any recommendations for implementation of revised pay structure according to the 7th Pay Commission, in the event the staff and employees of the concerned PSE's/Corporations/Autonomous Bodies and Agencies have resorted for wage dispute redressal or any other redressal before the office of the Labour Commissioner or any Court of law under the provisions of the Industrial Disputes Act, 1947 or the Workmen's Compensation Act, 1923 or any other law in force. The State Government, who is Respondent No.2 in the present petition, will have to accordingly clarify whether the recommendations for implementation of revised pay structure in the case of Petitioner can be received by the Finance Department, particularly considering the fact that there is no wage dispute redressal proceedings reflecting on the basis of recommendations made by the 7th Pay Commission. The wage dispute proceedings taken by the Petitioner before the Labour Court under Section 33C(2) of the Industrial Disputes Act,1947 do not concern the revision of pay structure per se, but the MACP rule for upgradation in salary structure upon completion of 30 years of service. This controversy has no bearing on recommendations of revision made by the 7th Pay Commission. It is imperative that the State Government makes it stand clear by the next date. The petition is accordingly stood over to 3rd July, 2019."

5. From the aforesaid, it is clear that the respondent no.1 Corporation, at least in principle, has no objection to consider the recommendations of 7th Pay Commission and to forward the necessary recommendations in that regard to the respondent no.2 i.e. the State of Goa. However, the respondent no.1 Corporation, felt itself disabled in

adopting the aforesaid course of action, on account of Circular dated 27.11.2017 issued by the Government of Goa, including in particular, Clause 2(iv) thereof which reads thus:

> "(iv) Administrative Departments are advised that no recommendations for implementing revised pay structure shall be received by the Finance Department, in the event the staff and employees of the PSE's/Corporations/Autonomous Bodies and Agencies concerned, have resorted for wage dispute redressal or any other redressal before the Office of the Labour Commissioner or any other Court of Law, under the provisions of the Industrial Dispute Act, 1947 or the Workmen's Compensation Act, 1923 or any other law in force."

6. Today, learned Advocate General has made a statement that the aforesaid clause 2(iv) will not apply in the facts and circumstances of the present case.

7. According to us, the aforesaid statement made by the learned Advocate General substantially redresses the grievance of the petitioner. Mr. S. Dessai, learned counsel for the respondent no.1 Corporation states that if clause 2(iv) of the Circular dated 27.11.2017 is not to apply, then the respondent no.1 Corporation will make the necessary recommendations to the State Government for applying the 7th Pay

Commission scales to the petitioner, within a period of four weeks from today.

8. In view of the aforesaid, the difficulty expressed in the order dated 29.11.2018, in so far as the petitioner is concerned, will no longer survive.

9. By accepting the aforesaid statements made by the learned Advocate General as also Mr. S. Dessai, we dispose of this petition by requiring respondent no.1 to act accordingly. Once such recommendation is received by respondent no.2 State, the State is also directed to take appropriate action thereof within a period of four weeks from the date of the receipt of the recommendation.

10. The Rule is made absolute in the aforesaid terms. There shall be no orders as to the costs.

11. All the concerned to act on the basis of an authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J. ***M. S. SONAK, J.***

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