

**HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION Nos.42285 AND 37132 OF 2016

COMMON ORDER: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard learned counsel for the Union of India, which has filed these writ petitions under Article 226 of the Constitution of India challenging different orders of the Central Administrative Tribunal, and respective learned counsel appearing for respondent No.1.

2. The fundamental issue that arises for consideration in these two matters before the Tribunal is as to whether a person, who moved out of Central Government service and got into a public sector undertaking under the Government of India, is entitled to claim dearness allowance component at pre-restoration stage after his transition into public sector undertaking.

3. The Tribunal has relied on the decision of a Division Bench of this Court in W.P. No.21824 of 2010 dated 21.07.2011, which was rendered relying on the decision of the Hon'ble Supreme Court in **P.V. Sundara Rajan v. Union Of India**¹.

¹ 2000 (4) SCC 469

4. The learned counsel for Union of India attempted to point out that there is a legal issue involved, inasmuch as the *ratio decidendi* of the decision of the Supreme Court in **Sundara Rajan's Case** (supra 1) does not necessarily cover the issue in favour of the respondents herein. He points out that the learned Tribunal applied decision of a Division Bench of this Court which has been rendered misquoting the decision of the Hon'ble Supreme Court, insofar as it is the head-note that was relied on.

5. Having bestowed our anxious consideration to this issue, we think that we need to desist from going into that issue in these writ petitions under Article 227 of the Constitution. Firstly, these matters are in the supervisory jurisdiction after the Tribunal has decided the matters not merely by following the decision, but also looking into the merits of the decision. Secondly and more importantly, the amounts that are ordered to be paid to the respondents, who are applicants before the Tribunal, are less than Rs.1,00,000/- plus add-ons, may be by way of interest etc. We think, this is not a case where the impugned orders of the Tribunal have caused any injustice to the establishment, Union of India. We, therefore, decline to interfere with the impugned orders.

6. Therefore, both these Writ Petitions are dismissed. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any pending, in these writ petitions stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

March 19, 2019.

PV / SUR

