

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 17.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.15999 of 2010

and

M.P.No.1 of 2010

Association of Superannuated
Employees of Airports Authority
of India, Rep. by its General Secretary
P.V.Natajaran, Regd.No.231/98,
37/55, Civil Aviation Colony,
Nanganallur, Chennai - 600 061. ...Petitioner

Vs

1. Union of India, Rep. by
The Secretary to Government,
Ministry of Personnel Public
Grievances and Pensions,
3rd Floor, Lok Nayak Bhavan,
New Delhi - 110 003.
2. The Chairman,
AAI, RG Bhavan,
New Delhi - 3.
3. The Secretary,
Ministry of Civil Aviation,
'B' Block, Rajiv Gandhi Bhavan,
New Delhi - 3.
4. The Provident Fund Commissioner,
Government of India, TRIKOOT,
Bhikajicama Placa,
New Delhi - 110 006.
5. The Director General of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjund Airport,
New Delhi - 110 003. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider and grant all eligible pension and other pensionary benefits to the petitioner category or persons who have worked and retired/deceased between 02.10.1989 and 21.07.2007 by extending the Pension Scheme to these persons who are all similarly placed except for the date of retirement.

For Petitioner : Mr.M.Umashankar

For Respondents: Mr.A.Kumaraguru, CGSC
for R1, R3 and R5
Mr.R.Parthiban
for R2
Mr.C.Seethapathy
for R4

O R D E R

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein is an association of the retired employees under the Airports Authority of India (hereinafter referred to as 'AAI'). Their grievance is that though they have made several representations to the second respondent seeking for extension of the Employees Pension Scheme to such employees who had superannuated between 02.10.1989 and 21.07.2007, such representations have not been considered and therefore, the present writ petition has been filed.

3. According to the learned counsel for the petitioner, the persons, who have retired between 02.10.1989 and 21.07.2007, are eligible to be placed under the Pension Scheme.

4. The learned counsel appearing for the second respondent placed reliance on the proceedings of the second respondent, dated 13.05.2011 and submitted that the employees of the AAI, who had superannuated prior to 22.08.2007, would be eligible for benefits under the Employees Pension Scheme, 1995 and that the pension contribution was not withheld by the AAI and that such employees are required to remit their contribution subject to certain guidelines referred therein. The order of the second respondent in F.No.AAI/ECPF/PENSION/2007/47, dated 13.05.2011 to this effect reads as follows:

"2. The employees of AAI who are separated on account of Superannuation prior to 22/08/2007 eligible for benefits under the Employees Pension Scheme, 1995 and whose pension contribution is not withheld by AAI are required to remit the pension contribution (Pension on ceiling pay) along with interest to the Authority. The said contribution will be remitted to PF authorities and such employees may submit the claim form in 10-D after depositing the contribution along with interest.

3. These employees are required to follow the following guidelines:-

a) To ascertain whether eligible for Superannuation Pension under para 12 of the EPS Scheme, 1995 (The Scheme is available on website www.epfo.org).

b) The pension contribution on ceiling pay is as under:-

Contribution @ 8.33% of ceiling pay (i.e. Rs.5,000/- from 01/04/1995 to till 31/05/2001 and Rs.6,500/- from 01/06/2001 onwards).

c) Remit pension contribution in the following manner:-

? That amount of pension contribution from 01/04/1995 to the date of pensionable age i.e. 58 years = Rs. X.

? The interest applicable for the period as declared by PF Trust NAA/IAAI = Rs. Y.

? The total amount = $X+Y = Z$.

? The interest (as applicable on PF) on total amount till the actual date of remittance = Y1.

? The grand total amount due = $Z+Y1$.

d) After remitting the contribution, submit the claim form to RHQ/ Airport Director (Chennai/Kolkata/Establishment from where the employee is separated, in Form No.10-D (the form, instructions to fill up the form are available on website of AAI (www.aai.aero))."

5. The aforesaid order of the second respondent is self-explanatory. As such, the employees, who were superannuated prior to 22.08.2007, would be eligible for benefits under the Employees Pension Scheme subject to the condition that they remit the pension contribution (pension on ceiling pay) along with interest to the AAI. The letter also states that such contribution will be remitted to the Provident Fund authorities. The grievance of the employees, who had retired between 02.10.1989 and 21.07.2007, has been thus met.

6. It would be appropriate to mention here that since the present writ petition has been filed by an association of the retired employees and that the issue, as to whether each of the retired employees are eligible for the pension/family pension, is a matter to be decided on individual basis and therefore passing of an omni bus order in the present writ petition would not be appropriate. Nevertheless, if liberty is granted to such of those employees, who retired between 02.10.1989 and 21.07.2007, to approach the second respondent with an appropriate application seeking for the benefits, with

a consequential direction to the second respondent to consider the same, the ends of justice could be secured.

7. In the light of the above observations, the employees of the AAI, who had superannuated between 02.10.1989 and 21.07.2007, are hereby granted liberty to make an appropriate application before the second respondent herein seeking for the benefits under the Employees Pension Scheme, 1995, in accordance with the guidelines stipulated in the proceedings in F.No.AAI/ECPF/PENSION/2007/47, dated 13.05.2011. On receipt of such an application from the individual retired employees, the second respondent shall take into consideration the age of the superannuated employees and endeavor to dispose of the application as expeditiously as possible.

8. The writ petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
Union of India,
Ministry of Personnel Public
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3rd Floor, Lok Nayak Bhavan,
New Delhi - 110 003.

2. The Chairman,
AAI, RG Bhavan,
New Delhi - 3.

3. The Secretary,
Ministry of Civil Aviation,
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4. The Provident Fund Commissioner,
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5. The Director General of Civil Aviation,
Rajiv Gandhi Bhavan,
Safdarjund Airport,
New Delhi - 110 003.

+1cc to Mr.M.Umashankar, Advocate SR.No.23263

+1cc to Mr.R.Parthiban, Advocate SR.No.23708

W.P.No.15999 of 2010
and
M.P.No.1 of 2010

GP (CO)
GMY (29/06/2021)



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