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W.P.No.10961 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.10961 of 2016

and

W.M.P.No.9554 of 2016

1.S.Varadharajan

2.S.Karnan

3.S.Ramakumar

4.A.Jayaveera Raghavan

... Petitioners

Vs.

1.Airports Authority of India,
Represented by
The Chairman
(formerly International Airports Authority
of India)
Rajiv Gandhi Bhavan,
Sadarjung Airport,
New Delhi - 110 003.

2.The Airport Director,
Airports Authority of India,
(formerly International Airports Authority
of India)
Chennai International Airport,
Chennai - 600 027.

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay the monthly pension to the petitioners from the date of superannuation on 30.06.2006, 30.06.2006, 30.06.2005 and 30.09.2006 respectively by counting the total years of regular service in International Airports Authority of India and pay the pension.

For Petitioners : Mr.R.Singaravelan
Senior Counsel
for Ms.M.Srividhya

For Respondents : Mrs.A.Arul Mary

ORDER

The petitioner seeks issuance of a Writ of Mandamus, to direct the respondents to pay monthly pension to the petitioners from their respective date of superannuation by counting total years of regular service with International Airports Authority of India and accordingly pay pension to them.

2. The case of the writ petitioners is that they were all selected for appointment to various posts in Central Public Works Department (CPWD) in the year 1968 and 1969 and subsequently, they were all sent on deputation to the International Airports Authority of India (IAAI). By an administrative order, they were also absorbed on 01.09.1977 and they retired from services in and around in 2005-2006.



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3. The petitioners have approached the Central Administrative Tribunal (CAT), Chennai, seeking pension for their services rendered in CPWD and they succeeded ultimately, in and by an order dated 04.10.2013 passed by this Court.

4. The petitioners have all retired from IAAI having put in close to 18 or 19 years of service. However, they have been denied pension even as per the Pension Scheme introduced by the respondents.

5. Having completed nearly ten years of service, the petitioners fall short by only few months and therefore, it is their case that their services in CPWD may be taken into account, so that the pension can be awarded for the entire period of service.

6. The respondents have filed a counter affidavit admitting that the petitioners were absorbed as regular employees with effect from 01.09.1977. However, it is contended that the petitioners have received all the terminal benefits and the writ petition itself is belated, since the petitioners have all retired more than ten years back.



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7. It is also contended that it is not open to the petitioners to challenge the deputation to IAAI being without their consent, especially, when they were absorbed as regular employees of IAAI even in September 1977.

8. According to the respondents, Airports Authority of India (AAI) was formed by an Act of Parliament with effect from 01.04.1995 only. The petitioners' request to treat their services in CPWD cannot be entertained since the Employees Pension Scheme (EPS), 1995, is not a regular pension scheme.

9. It is also contended that the petitioners cannot be accommodated as admittedly there is a short-fall of nine months in respect of the first and second petitioners, one year nine months in respect of the third petitioner and four months in respect of the fourth petitioner.

10. The respondents have followed all the norms, terms and conditions of the scheme and therefore, the respondents contending that there are no merits in the writ petition and sought for dismissal of the writ petition.



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11. Heard the learned Senior Counsel for the petitioners and the learned

counsel for the respondents.

12. It is not in dispute that all the petitioners fall short by few months to become eligible for pension. As pointed out by the respondents in their counter affidavit, it is seen that excepting the third petitioner, the other three petitioners have missed the bus by just a few months.

13. The learned Senior Counsel appearing for the petitioners would invite the attention of this Court to an order of the Division Bench of this Court in W.P.Nos.14769 to 14773 of 2013 dated 04.10.2013. In almost identical circumstances, this Court following the ratio laid down by the Hon'ble Supreme Court in **Union of India and others Vs Tarsem Singh**, 2008 (2) SCC (L&S) 765, held that the petitioners therein were entitled to the benefits from the date of the application made since similarly placed employees were given the same benefits and the petitioners therein would not be treated differently. This Court passed a considered order giving appropriate directions calling upon/requiring the petitioners to refund the gratuity, which was already received with 9% simple interest per annum.



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14. The writ petition was disposed of in terms of the order passed in W.P.No.4213 of 2006 dated 06.04.2009. The Division Bench of this Court has already passed orders extending the benefits of the pension scheme to the similarly placed employees of AAI.

15. On this limited ground, the petitioners, who have approached this Court for similar relief cannot be denied the benefits. However, at the same time, this order should not open the floodgate of fresh applications being made by other retired employees.

16. Considering the fact that these petitioners have approached this Court in 2016 and all of them have missed the bus by few months, the respondents are directed to extend the benefits of the pension scheme to the petitioners with effect from the date of filing of the writ petition alone. This order shall not be cited as a precedent in order to open a flood gate of fresh claims.

17. It is also made clear that the directions issued by this Court in W.P.No.4213 of 2006 dated 06.04.2009, shall be followed in the present case of the petitioners also.



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18. The learned counsel for the respondents would also submit that the petitioners are liable to pay their portion of contribution, together with interest.

19. The respondents shall therefore deduct the employees' contribution calculating the arrears payable together with interest at 6% per annum and after deducting the same, the balance amount shall be paid to the petitioners.

20. This exercise shall be carried out by the respondents, within a period of six weeks from the date of receipt of a copy of this order.

21. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

21.06.2023

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes / No

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P.B.BALAJI, J.

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To

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(formerly International Airports Authority
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