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W.A.No.1553 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

W.A.No.1553 of 2012

- 1.K.Siddarthan
- 2.P.Selvacoumar
- 3.P.Danasegar
- 4.S.Velmurugan
- 5.J.Ganasekaran

... Appellants

-Vs-

- 1.The Chief Secretary to Government
Government of Puducherry
Puducherry.
- 2.The Secretary to Government (Finance)
Government of Puducherry
Puducherry.
- 3.The Secretary to Government
Government of Puducherry
Puducherry.
- 4.Union of India, represented by the
Secretary to Government of India
Ministry of Home Affairs
North Block, Central Secretariat
New Delhi-110 001.
(R4 impleaded as party respondent vide
court order dated 31.03.2023 made in
CMP No.1886 of 2018 in W.A.1553/2012
by DKKJ&KGTJ)

... Respondents



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Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.12336 of 2007 dated 05.06.2012.

For Appellants : Mr.C.Vigneswaran

For Respondents : Mr.Syed Mustafa,
Special Government Pleader (Puducherry)
for RR 1 to 3

Mr.R.Rajesh Vivekanandan
Deputy Solicitor General of India - for R4

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal is directed against the order passed by the learned Judge dated 05.06.2012 in W.P.No.12336 of 2007. The appellants herein were the writ petitioners who were working as Field Supervisors in the Statistical Department of the respondent Government ie., Puducherry Union Territory Government.

2. The pay scale they were receiving after the V Pay Commission recommendation was Rs.3050-4590/-. This in fact was revised from the previous pay of Rs.950-Rs.1500/-. Aggrieved over the said fixation, they filed an original application in O.A.No.892 of 1999, where they sought to revise their pay from Rs.3050-4950/- to Rs.5000-8000/- with effect from 01.01.1996. In the said O.A., a direction was given to the Union Territory Government to consider the plea of the employees and to decide the same. The Union Territory administration sent a proposal to the Union Government for revising the pay scale and having considered



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the same, the Union of India, vide letter dated 12.06.2001, after examination of the proposal submitted by the Union Territory Administration, has considered to revise the pay scales from Rs.3050-4590/- to Rs.4000-6000/- in the V Pay Commission scales.

3. Still aggrieved over the same, the appellants / petitioners filed further original application in O.A.No.427 of 2002 for enhancing their pay to Rs.5000-8000/- However, the Central Administrative Tribunal vide its order dated 24.08.2001 turned down the prayer of the applicants therein, who are the appellants herein and against which they filed writ petition in W.P.No.12336 of 2007 before this Court, which was also dismissed by this Court by order dated 05.06.2012.

4. When that being so, the Union Territory Government on its own, without getting the approval of the Union Government, had appointed an one-man commission to rectify the anomalies if any pursuant to the revision of pay scale based on the V Pay Commission recommendation and in this context, the one-man commission had made a recommendation to the Union Territory Government that for 135 cadre of posts, no revision was required, however, in respect of 67 cadre of posts, revision was required. Therefore, the one-man commission recommended to the Union Territory Government to make revision of pay scales for the said 67 cadre of posts. Field Supervisor was one among the 67 posts, to which the one-man commission made a recommendation to enhance the pay to Rs.4500-7000/-.



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5. In this context, it is to be noted that since 67 cadre posts for whom the one-man commission made recommendation to revise the pay scales, the Union Territory Government had revised the pay scales and started paying the revised pay also. Thereafter, they approached the Union Government to get ratification of such revision of pay on the basis of the recommendation made by the one-man commission appointed by the Union Territory Government.

6. However, the Union Government, after having taken note of the said development that had taken place, decided not to approve the one-man commission itself which was appointed without the nod and permission or authority of the Union Government. That in fact was communicated to the Union Territory Government, registering its protest as to on what basis and under what authority they appointed the one-man commission and therefore, such appointment of one-man commission itself is unauthorised and hence the recommendation if any made by the one-man commission ought not to have implemented. Therefore, no approval was given by the Union Government for the recommendation made by the one-man commission or its implementation.

7. Subsequently, the Government of Puducherry had come forward to roll back the benefits that had already been given by paying the revised pay to various categories of 67 cadre posts, for whom such a recommendation has been made by the one-man commission. This is the parallel development that had taken place.



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8. However, insofar as these appellants are concerned, since the one-man commission had made recommendation to revise their pay scale to Rs.4500-7000/-, in order to implement the same, the appellants had approached the writ Court and filed a writ petition in W.P.No.12336 of 2007 seeking for a Mandamus to that effect. The said writ petition having been considered, was rejected by the learned Judge by the order impugned dated 05.06.2012. That is how this writ appeal has come up before us.

9. Assailing the said order which is impugned herein passed by the writ Court in W.P.No.12336 of 2012, Mr.C.Vigneswaran learned counsel for the appellants would submit that, insofar as the recommendation that has been made by the one-man commission appointed by the Union Territory Government under G.O.Ms.No.1/2005/F-3 dated 03.01.2005 is concerned, the said recommendation had been made for the post of Field Supervisors in the Statistical Department for revision of pay scale of Rs.4500-7000/- should be implemented. The reason for asking such an implementation is that, in respect of all other cadre posts nearly about 60 plus cadre posts, such an implementation had already been made. When that being so, the post of Field Supervisor cannot be singled out.

10. This was the plea raised by the appellants before the writ Court, which was not considered by the learned Judge and erroneously the said plea was rejected



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by dismissing the writ petitions. Hence, it requires interference from this Court, he contended.

11. However, Mr.Syed Mustafa, learned Special Government Pleader (Puducherry) appearing for the respondent Union Territory Government would submit that, insofar as the pay revision that has already been made pursuant to the V Pay Commission recommendation, based on the Union Government's vide their nod given in their letter dated 12.06.2001 the same has been made from Rs.3050-4590/- to Rs.4000-6000. Insofar as the further revision from Rs.4000-6000/- to Rs.4500-7000, even though the one-man commission made a recommendation and in view of some of the recommendations made in respect of other cadre posts, the Union Territory Government in fact had started implementation of payment of revised pay scale. Since the Union Government had thereafter come forward to refuse the appointment of the one-man commission itself, the Union Territory Government had decided to roll back the benefits that had already been extended to 60 plus cadre posts on the basis of the one-man commission recommendation.

12. In this context, in respect of some of the categories, when the Puducherry Government decided to roll back the benefits already given pursuant to the directive issued by the Union Government, some of the beneficiaries had approached the Central Administrative Tribunal, where they, on the one hand sought for execution of the decision taken by the one-man commission and on the other



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hand sought for setting aside the recovery now sought to be made by the decision of the Union Territory Government for having rolled back the benefits already extended to the beneficiaries.

13. Against the decision taken by the Tribunal, which decided in favour of the Union Territory Government in one case, the affected parties filed W.P.No.24012 of 2014. Similarly, against the decision that was taken by the Tribunal in O.A.No.1418 of 2010 dated 10.09.2012 and, Review Application No.16 of 2014 which was filed by the Union Territory Government was also dismissed by the Tribunal on 28.08.2014, a writ petition was filed by the Union Territory Government in W.P.No.34858 of 2014. These two judgments have been relied upon heavily by the learned Special Government Pleader (Puducherry) appearing for the respondent Puducherry Government and he would submit that, the very appointment of the one-man commission itself has not been authorised by the Union Government and therefore it has not been approved or ratified by the Union Government. Therefore, the Union Territory Government had no other option except to roll back the benefits already extended to various cadres of employees numbering more than 60 in this regard and this decision taken by the Union Territory Government, having been considered, was approved by at least two judgments of this Court, which has become final.

14. When that being so, the question of extending the very same benefit pursuant to the one-man commission to these employees does not arise. Hence, the



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decision taken in this regard by the learned Single Judge in the order impugned is fully justified and therefore the learned Special Government Pleader seeks dismissal of the writ appeal.

15. We have given our anxious consideration to the submission made by the learned counsel for both sides and have perused the materials placed on record.

16. No doubt, based on the V Pay Commission recommendation earlier the pay scale has been revised ie., Rs.3050-4590 for the appellants cadre ie., Field Supervisor. This again has been revised to Rs.4000-6000/- pursuant to the decision taken by the Union Government, which is conveyed by the letter dated 12.06.2001 to the Puducherry Government.

17. Even after such revision has been made to Rs.4000-6000/-, not satisfied with the same, the Filed Supervisors had sought for implementation of the recommendation made by the one-man commission to revise the scale of pay to Rs.4500-7000/-. Though such one-man commission was appointed earlier by the Puducherry Government, subsequently it was not ratified and not approved by the Union Government, therefore a directive was issued by the Union Government to Puducherry Government to roll back the benefits already given based on the recommendation of the one-man commission as they did not have any authority to appoint such commission itself.



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18. Therefore, the Puducherry Government decided to roll back the decision already taken and it became necessitated for them even to recover the amount that been paid to various employees in more than 60 cadres on the basis of the revised pay as per the recommendation of the one-man commission. As against the said decision of the roll back when those beneficiaries approached the Tribunal in one round of litigation, the decision was in favour of the employees and in another round of litigation, the decision was in favour of the Union Territory Government, as against which two separate lis has come before this Court; first writ petition is W.P.No.24012 of 2014 filed by the employees and the second writ petition is W.P.No.34858 of 2014 filed by the Puducherry Government.

19. The first decision has been given by a Division Bench of this Court dated 10.10.2014 in the matter of **"N.Murali and another -Vs- The Registrar and Others"**, where the Division Bench has held as follows:

7. *There is no dispute that the Tribunal earlier passed an order dated 18.03.2010 in O.A. Nos.193 and 194 of 2008, directing the Government of Puducherry to revise the pay scale on the basis of recommendations made by the Single Member Committee. The Government of Puducherry appears to have approached the Union Home Ministry to ratify its action and to implement the recommendation made by the Single Member Committee. The Ministry of Home called upon Puducherry administration to state as to how it could appoint a Single Member Committee to revise the pay scale. The Government of Puducherry appears*



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to have admitted its mistake in revising the pay scale on the basis of the recommendations made by the Single Member Committee.

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8. *The Tribunal, without knowing the legal position and the extent of power of the Union Territory administration to revise the pay scale, allowed the Original Application earlier. It was only when the order was referred to the Central Government for implementation, the basic mistake was realised by the Union Territory of Puducherry. The Government of India informed the Union Territory administration that it has no delegated authority for upgrading any post or to revise the pay scale, without the prior approval of Central Government.*

9. *The petitioners have not demonstrated that the Government of Union Territory of Puducherry have got the power to create post, upgrade it or to revise the pay scale without reference to the Central Government.*

10. *The President, who is the executive head of the Union Territory is functioning as its head, by virtue of the power conferred on him under Article 329 of the Constitution of India. The Administrator appointed by the President is essentially functioning as a delegate of the President. As observed by the Supreme Court in Government of NCT Delhi vs. All India Central Civil Accounts, JAO's Association and Others, (2002) 1 SCC 344, the Administrator has to act under the orders of the President, i.e., the Central Government.*

11. *The Government of Puducherry earlier committed a mistake. Without knowing its power, the Government have appointed the Single Member Committee and thereafter, revised the pay scale. The said action*



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Fireman, Leading Fireman, Station Officer and Assistant Divisional Fire Officer.

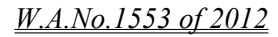
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15. It should be pointed out that the claim made by all persons on the basis of the recommendations of the Single Member Committee, de hors the recommendations of the V and VI Pay Commissions, would have a serious spiraling effect with one pointing out the other. The purpose of constitution of the One Member Committee is to remove the anomalies while implementing the recommendations of the V and VI Pay Commissions. Therefore, the Union Territory of Pondicherry was right in rolling back the mistake committed by them in following the Single Member Committee's Recommendations and the same cannot be found fault with."

21. In these two judgments, the Division Benches have taken a consistent stand that the Union Territory Government did not have the authority to appoint even the one-man commission and it has been made clear by the stand taken by the Government of India when they appeared before the Central Administrative Tribunal.

22. Since the appointment of the one-man commission itself is unauthorised, the question of implementing the recommendation made by the one-man commission does not arise. Therefore, the Union Territory Government did not have any other option except to roll back the benefits already extended to some cadre of employees based on the recommendation of the one-man commission, and the said decision to roll back the benefits also has been approved by the decision of the



23. Therefore, we do not find any error in the order of the learned Single Judge and we have to confirm the said order passed by the writ Court which is impugned herein.

24. The learned counsel appearing for the appellants also canvassed the point that it is not only based on the one-man commission, but a subsequent commission was also appointed to rectify the anomalies that were caused due to the implementation of the recommendation of the one-man commission and based on such commission since the recommendation has been made and based on the said recommendation, the benefit can be extended to these appellants. Insofar as these aspects are concerned, if at all any such issue is there, that is a new cause of action and that can be agitated by the appellants in the manner known to law as a fresh lis.



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25. Insofar as this lis is concerned, the prayer sought for in the writ petition is only in respect of the implementation of the recommendation of the one-man commission, which has already been decided. The appellants cannot seek for any benefit arising out of the one-man commission. Therefore, this appeal deserves to be rejected. Accordingly, it is dismissed. No costs.

(R.S.K.,J.) (K.B.,J.)

02.08.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

KST

To

- 1.The Chief Secretary to Government
Government of Puducherry
Puducherry.
- 2.The Secretary to Government (Finance)
Government of Puducherry
Puducherry.
- 3.The Secretary to Government
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