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W.P.Nos.1190, 1215 & 1219 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**
and

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

W.P.Nos.1190, 1215 and 1219 of 2020
and W.M.P. Nos.1459, 1479 and 1481 of 2020

1.The Union of India rep. By
The Central Provident Fund Commissioner,
EPF Organisation, Head Office,
No.14, Bhikaji Cama Place,
New Delhi – 110 066.

2.The Additional Central Provident Fund
Commissioner (HRM),
EPF Organisation, Head Office,
No.14, Bhikaji Cama Place,
New Delhi – 110 066.

3.The Additional Central Provident Fund
Commissioner,
EPFO Zonal Office (TN & KR),
No.37, Royapettah High Road,
Chennai – 600 014.

4.The Regional Provident Fund
Commissioner-II/Adm,
EPF Organisation Regional,
No.37, Royapettah High Road,
Chennai – 600 014.

.. Petitioners in all W.Ps

Vs.



W.P.Nos.1190, 1215 & 1219 of 2020

G.Gopalakrishnan

.. first respondent
in W.P.No.1190 of 2020

S.Sampath

.. first respondent
in W.P.No.1215 of 2020

P.Muthuvel

.. first respondent
in W.P.No.1219 of 2020

The Registrar,
Central Administrative Tribunal,
Chennai Bench,
City Civil Court Complex,
High Court Buildings, Chennai.

.. second respondent in
all W.Ps

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the second respondent viz., Central Administrative Tribunal, Chennai Bench in O.A. Nos.889, 870 and 885 of 2017 (O.A.No.870 of 2017 etc., batch) dated 19.06.2019 and quash the same.

For Petitioners

.. Mr.V.Vijay Shankar
in all W.Ps

For Respondents

.. Ms.N.R.Jasmine Padma
for R1 in all W.Ps
R2 – Tribunal in all W.Ps

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COMMON ORDER

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[Order of the Court was made by **D.KRISHNAKUMAR, J.,**]

Challenging the order of the Central Administrative Tribunal, Chennai Bench dated 19.06.2019 made in O.A.Nos.889, 870 and 885 of 2017 (O.A.No.870 of 2017 etc., batch), the present writ petitions have been filed by the Employees Provident Fund Organisation.

2. The brief facts of the case are as follows:

2.1 The first respondent in W.P.No.1190 of 2020 was appointed as Plumber on 30.10.1980, subsequently promoted as Lower Division Clerk on 28.10.1983 and thereafter promoted as Upper Division Clerk on 31.05.1991. He was upgraded to UDC (selection grade) on 29.10.2000 in the pay scale 5000-150-8000 (V pay commission) equivalent to Grade pay 4200 in the VI Pay Commission.

2.2 The first respondent in W.P.No.1215 of 2020 was appointed as Electrician on 25.05.1986, subsequently promoted as Lower



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Division Clerk on 07.12.1987 and thereafter promoted as Upper Division Clerk on 08.05.1995. He was upgraded to UDC (selection grade) on 07.12.2004 in the pay scale 5000-150-8000 (V pay commission) equivalent to Grade pay 4200 in the VI Pay Commission.

2.3 The first respondent in W.P.No.1219 of 2020 was appointed as Electrician on 08.08.1983, subsequently promoted as Lower Division Clerk on 15.01.1985 and thereafter promoted as Upper Division Clerk on 28.06.1991. He was upgraded to UDC (selection grade) on 15.01.2002 in the pay scale 5000-150-8000 (V pay commission) equivalent to Grade pay 4200 in the VI Pay Commission.

2.4 The first respondent in the respective writ petitions made a representation for grant of Modified Assured Career Progression Scheme (hereinafter referred to as 'MACP Scheme') seeking the grade pay of Rs.4,600/- in accordance with the office memorandum dated 19.05.2009. However, vide order dated 17.11.2016, the said representation was rejected by the petitioner Organisation stating that the first respondent/employees have derived three promotions and therefore they are not entitled for further upgradation under MACP



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Scheme. Challenging the said rejection order dated 17.11.2016 and seeking benefits of MACP Scheme in the grade pay of Rs.4,600/-, the first respondent/employees filed O.A.Nos.889, 870 and 885 of 2017. Before the Tribunal, the petitioner Organisation filed a counter stating that the first respondent/employees were not entitled for any further upgradation under the MACP Scheme as they had already derived three promotions/upgradations. The Tribunal, after hearing both sides, disposed of the Original Applications with a direction to the petitioner Organisation to consider the claim of the first respondent/employees in terms of the direction to be passed by the High Court in W.P.Nos.5981 of 2018 etc., batch and pass a reasoned and speaking order within a period of three months. Aggrieved by the order of the Tribunal, the petitioner Organisation preferred these writ petitions.

3. Learned counsel for the petitioner Organisation submitted that the first respondent/employees placed reliance on the order passed by the Tribunal in O.A.No.708 of 2016 etc., batch and in the said case, the benefits of 3rd MACP Scheme granted to the employees were later cancelled on finding the same to be erroneous. He further submits that the first respondent/employees are not similarly placed as that of the



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employees in the said batch of cases as the first respondent/employees were not granted the benefit of 3rd MACP but they were denied such benefits as they had derived three promotions/upgradations. Even though it was pointed out before the Tribunal that the orders passed in O.A.No.708 of 2016 etc., batch were challenged before this Court and the writ petitions are pending, the Tribunal directed the petitioner Organisation to reconsider the claim of the first respondent/employees subject to the decision to be taken by the High Court in the above writ petitions. Learned counsel further submits that the order relied upon in the impugned order will not apply to the case of the first respondent/employees and this aspect was not appreciated by the Tribunal. Therefore, learned counsel prays this Court to remit the matter to the Tribunal with a direction to consider the matter on merits and pass orders.

4. Learned counsel for the first respondent/employees submitted that the Tribunal has passed the order following the aforesaid judgment and therefore even the first respondent/employees herein are entitled for the relief of MACP. According to the learned counsel, the first respondent/employees are entitled for MACP Scheme as per



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the averments made before the Tribunal but according to them the aforesaid fact has not been discussed by the Tribunal. Learned counsel also brought to the notice of this Court the order dated 31.08.2023 made in W.P.No.5981 of 2018 etc., batch and submitted that those writ petitions were dismissed.

5. We find some force in the submission made by the learned counsel for the petitioner Organisation that the case of first respondent/employees is not identical to the one relied on by the Tribunal in O.A.No.708 of 2016 etc., batch as the facts of the said batch cases are different and the factual issues have not been discussed by the Tribunal.

6. On a careful perusal of the order impugned in these writ petitions, it is seen that the Tribunal has not rendered a finding whether the decision in O.A.No.708 of 2016 etc., batch will apply to the facts of the case of the first respondent/employees. Therefore, in the interest of justice, the order passed by the Tribunal is required to be set aside. Accordingly, the impugned order passed by the Tribunal is set aside and the matter is remitted back to the Tribunal for



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considering the matter afresh and to pass orders on merits and in accordance with law. Since the original applications are of the year 2017, the Tribunal has to dispose of the same at the earliest.

7. With the above observation, the writ petitions stand allowed.

No costs. Consequently connected miscellaneous petitions are closed.

(D.K.K.,J.) (P.D.B.,J.)

20.12.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

The Registrar,
Central Administrative Tribunal,
Chennai Bench,
City Civil Court Complex,
High Court Buildings, Chennai.



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