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W.P.No.10177 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.No.10177 of 2018 and

WMP Nos.10738 and 10739 of 2018

1. Union of India, rep. by the General Manager,
Southern Railway, Park Town, Chennai-3.

2. The Divisional Personnel Officer,
Trichirappalli Division, Southern Railway,
Trichy.

... Petitioners

Vs.

A.Kuppusamy

... Respondent

PRAYER: Writ petition is filed under Article 226 of Constitution of India, for issuance of a writ of Certiorari, calling for the records in the impugned order dated 31.10.2016 made in O.A.No.576/2015 on the file of the Central Administrative Tribunal, Madras Bench and quash the same.

For Petitioners : Dr.S.R.Sundaram

For Respondent : No appearance



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ORDER

WEB COPY (Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This writ petition has been filed by the Union of India, Southern Railway, challenging the order passed by the Tribunal in O.A.No.575/2015, dated 31.10.2016.

2. Before Tribunal, the respondent herein had filed the above original application, challenging the order of revised financial upgradation, passed by the Railway Department, dated 21.11.2014.

3. The Tribunal, following the order passed by this Court in similar matter in W.P.No.16143/2016, has passed the common order in O.A.No.575/2015, 576/2015, 577/2015, 581/2015 and 631/2015, which is extracted as under.

5. When the matter is taken up, the learned counsel on both sides would submit that this Bench, had earlier dismissed O.A.No.1338/2012, in which a similar issue had been dealt with. Against this order, W.P.No.16143/2016 was filed before the Hon'ble High Court of Madras, which by its order dated 22.08.2016/01.09.2016 set aside the order of the Tribunal. The relevant paras of 9, 10, and 11 are reproduced below:-



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9. *In the instant case, as rightly pointed out on the sides of the petitioner/applicant, he has been given first promotion on 27.11.1991 and the second promotion on 01.11.2003 as per clause 5 of the said scheme, earlier promotions given to the petitioner have to be ignored, since there is a merger of post.*

10. *It is an admitted fact that as on 27.11.1991, the petitioner has completed 20 years of service from the date of effective promotion.*

11. *In clause 1 of the Modified Assured Career Progression Scheme (MACPS), it is stated like thus:*

1. There shall be three financial upgradations under the MACPS, counted from the direct entry grade on completion of 10, 20 and 30 years of service respectively. Financial upgradation under the scheme will be admissible whenever a person has spent 10 years continuously in the same Grade Pay.

It is submitted that following the aforesaid order of the Hon'ble High Court Madras, this Tribunal disposed of similar OAs among which is OA 670/2015 and therefore, the respondents could be directed to consider the applicants' claim in the light of this order. However, learned counsel for the respondents would submit that a similar case was appealed by way of WP in the Hon'ble High Court of Madras, which was dismissed and the respondents have filed a review petition (RP) before the Hon'ble High Court.

6. As the point of law on which relief was granted does not seem to have been settled finally and the matter is still before the Hon'ble High Court, we deem it appropriate to dispose of this OA with a direction to the respondents that the impugned order shall be reviewed by them, in the event of the aforesaid RP being decided in favour of persons similarly situated as the applicants.



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4. In the present writ appeal also, one of the grounds raised by the petitioners/ Department is that, the order passed by this Court in W.P.No.16143/2016 is under challenge by way of filing Review Petition No.140/2016 and the same is pending.

5. Today, the learned counsel appearing for the petitioners/ Department informed before this Court that, the above Review Petition No.140/2016 had already been dismissed and they will not proceed further as against the order passed in the review petition.

6. Admittedly, in similar matter in W.P.No.16143 of 2016, this court has passed the order in favour of the employees, directing the Department to extend the admissible III MACP benefits to the employee, as per the MACP scheme. Following the above order, and also taking into account the submission of the learned counsel for the Department that review petition against W.P.No.16143/2016 is pending before this court, the Tribunal has directed the Department that the impugned order of revised financial upgradation shall be reviewed, in the event of order passed by the High



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Court in the above review petition in favour of the employees. In such circumstances, we are of the view that, there is no error apparent in the order passed by the Tribunal and hence, the writ appeal is liable to be dismissed.

7. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. Since the order of this Court in W.P.No.16143/2016 dated 22.08.2016 has become final, the petitioners/Department is directed to reconsider the impugned order, based on the representation made by the respondent and to pass appropriate orders, as per the MACP Scheme, within a period of twelve weeks from the date of receipt of a copy of this order.

(D.K.K.J.)

(K.B.J.)

15.04.2024

(2/3)

Internet: Yes/No

Index : Yes/No

mst

To

The Registrar,

Central Administrative Tribunal,

Chennai.



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D.KRISHNAKUMAR, J.
and
K. KUMARESH BABU, J.

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