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W.P.No.28401 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.28401 of 2012 and

M.P.No.1 of 2012

1. Union of India, rep. by the General Manager,
Southern Railway, Park Town,
Chennai 600 003.
2. The Chief Personnel Officer,
Southern Railway, Park Town,
Chennai 600 003.
3. The Financial Advisor & Chief Accounts Officer,
Southern Railway, Park Town,
Chennai 600 003.

... Petitioners

Vs.

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai 600 104.
2. M.Mangalaswamy

... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the entire records of the first respondent in O.A.No.1043/2011 including the order dated 19.07.2012 and quash the same.

For petitioners : Mr.P.T.Ramkumar, Standing Counsel

For Respondents : Mr.S.Ramaswamy Raja Rajan
for second respondent

ORDER

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

Challenging the order passed by the Tribunal in O.A.No.755/2011, dated 18.07.2012, in and by which, the appellants herein were directed to *grant the benefit of 55% of pay element for pensionary benefits to the second respondent, subject to the outcome of the SLP No.11805 to 11808/2009, pending before the Hon'ble Supreme Court*, this writ petition has been filed.

2. The brief facts leading to the filing of the present writ petition is as follows.



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The second respondent was initially appointed as Fireman 'A' and subsequently, he had worked as Goods Driver, passenger Driver, Mail Driver and then he had worked as Loco/Senior Loco Inspector and Assistant Mechanical Engineer/Assistant Works manager. According to the second respondent he was appointed in running category and posted to work in the stationary post of Loco/Senior Loco Inspector and hence, in terms of Rule 1514 & 1515 of Indian Railway Establishment Code Volume-I (Annexure A-2), Loco Inspectors are entitled for running allowance. Therefore, his pensionary benefits should be calculated by adding 55% of the pay elements. However, the petitioners herein had not considered his representations and hence, he had filed the above original application before the Tribunal. The Tribunal, by taking into account the orders passed by the Tribunal in similar matters in O.A.No.679/2011, O.A.No.294/2011 and O.A.Nos.676, 1188 and 1189/2010, had granted the above benefits to the second respondent, subject to the outcome of SLP(C) No.11805 to 11808/2009, pending before the Hon'ble Supreme Court. Challenging the above order, the Department had filed the present writ petition.



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3. The learned Standing Counsel appearing for the petitioners submitted that, in a similar matter in W.P.No.21259/2013, this Court has dismissed the writ petition, vide order dated 20.10.2023, pursuant to the orders passed in SLP No.11805 to 808/2009 by the Hon'ble Supreme Court and also the subsequent orders passed by the Delhi High Court as well as the Hon'ble Supreme Court, and hence, on the same line, orders may be passed in the present writ petition.

4. In the above said W.P.No.21259/2013, which is similar in nature to the present writ petition, this Court has passed the following order, vide order dated 20.10.2023.

3. The learned Standing Counsel appearing for the petitioners submitted that, in similar matters, the orders passed by the Central Administrative Tribunal was challenged before the Delhi High Court by filing writ petitions and the same were dismissed. As against the orders passed by the Delhi High Court in W.P.(C) No.8363/2007 etc., dated 18.09.2008, an appeal in SLP (C) No.11805/2009 along with other cases were filed by the Department before the Hon'ble Supreme Court, and the same were disposed of, vide order dated 29.04.2015, by granting permission to the Department to approach the Delhi High Court by way of review petitions. Accordingly, the Department had



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filed the Review Petition Nos.377/15 in W.P.(C) 2937/2007; 396/2015 in W.P.(C) 8363/2007 etc. and the same were dismissed by the Delhi High Court on 09.10.2015. As against the above orders, Civil Appeal Nos.3110/2016 etc., had been filed before the Hon'ble Supreme Court and the same were dismissed on 22.02.2023. He has also placed the copy of the i) orders passed by the Hon'ble Supreme Court in SLP (C) Nos.11805/2009, etc., dated 29.04.2015; ii) orders passed by the Delhi High Court in Review Petition Nos.377/2015 in W.P.No.2937/2005; 328/2015 in W.P.(C) 8363/2007 etc., dated 09.10.2015; iii) and the orders passed by the Hon'ble Supreme Court in Civil Appeal Nos.3110/2016 etc., dated 22.02.2023.

4. It is to be noted that, while passing the impugned order, the Tribunal had granted the benefits to the respondents, subject to the outcome of SLP (c) Nos.11805 to 11808/2009, pending before the Hon'ble Supreme Court. Subsequently, the Hon'ble Supreme Court had disposed the above said Special leave petitions by granting permission to approach the Delhi High Court. Accordingly, the Department had filed review petitions and the same were dismissed by the Delhi High Court. Further, as against the dismissal order passed in the review petitions, Civil Appeals (as stated supra) had also been filed and the same were also dismissed by the Hon'ble Supreme Court, vide order dated 22.02.2023.

5. In view of the above, the impugned orders passed by the Tribunal, which was challenged in the writ petition has reached finality and hence, we have no hesitation to conclude that the impugned orders passed by the Tribunal does not warrant any



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interference by this Court. Therefore, there is no merits in the writ petition and the same is liable to be dismissed.

6. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

5. Inview of the order passed in W.P.No.21259/2013 dated 20.10.2023, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

01.11.2023

Internet: Yes/No

Index : Yes/No

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To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai 600 104.
2. The General Manager, Union of India,
Southern Railway, Park Town, Chennai 600 003.
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