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W.P.Nos.10855 and 10867 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.Nos.10855 and 10867 of 2021
and W.M.P.Nos.11490 and 11500 of 2021

W.P.No.10855 of 2021:

1.The Union of India

Represented by Secretary to Government of India
Ministry of Labour,
Shram Shakti Bhawan
New Delhi 110 001.

2.The Central Provident Fund Commissioner,

Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi 110 066.

3.The Additional Provident Fund Commissioner,

EPF Organisation, Ministry of Labour and Employment
Zonal Office (Chennai and Puducherry)
No.37, Royapettah High Road,
Chennai 600 014.

.. Petitioners

Vs.

1.S.Sitharthan

2.Celine Pinto

3.R.J.Tuli



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4.K.Radhakrishna

5.Chandra Prakash

6.Dharam Raj Singh

7.R.K.Mehra

8.GajaNand

9.Rakesh Kapoor

10.Paramjeet Kaur

11.Harish Makhija

12.M.A.Taher

13.KiranRawal

14.Vinod Kmar Grover

15.R.D.Thakur

16.N.V.V.Satya Sai

17.P.Y.Wagh

18.Anand Kumar

19.The Central Administrative Tribunal

Chennai Bench

Rep by its Registrar

High Court Building Campus

High Court Madras.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records



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of the Central Administrative Tribunal, Chennai Bench viz., 19th respondent in its OA No.1910/2017 dated 06.02.2020 and quash the same.

For Petitioners : Mr.V.Vijay Shankar

For R1 : Mr.P.Ulaganathan

For R19 : Tribunal

For R2 to R18 : Dispensed with

W.P.No.10867 of 2021:

1.The Union of India

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2.The Central Provident Fund Commissioner,

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3.The Additional Provident Fund Commissioner,

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.. Petitioners

Vs.

1.N.S.Jayanthi

2.Johnson

3.MohaNichani



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4.Celine Pinto

5.R.J.Tuli

6.K.Radhakrishna

7.Chandra Prakash

8.Dharam Raj Singh

9.R.K.Mehra

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11.Rakesh Kapoor

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21.The Central Administrative Tribunal
Chennai Bench
Rep by its Registrar
High Court Building Campus
High Court Madras.

.. Respondents



W.P.Nos.10855 and 10867 of 2021

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the Central Administrative Tribunal, Chennai Bench viz., 21st respondent in its OA No.1922/2017 dated 06.02.2020 and quash the same.

For Petitioners : Mr.V.Vijay Shankar

For R1 : Mr.P.Ulaganathan

For R21 : Tribunal

For R2 to R20 : Dispensed with

COMMON ORDER

(Order of the Court was delivered by V.LAKSHMINARAYANAN, J.)

These Writ Petitions have been filed by the Union of India and others challenging the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.Nos.1910 and 1912 of 2017 dated 06.02.2020.

2. By the impugned order, the Central Administrative Tribunal set aside the order of promotion of the applicants therein dated 03.07.2017 and directed the respondents therein/writ petitioners herein to conduct a review DPC and consider the granting of retrospective promotion to the applicants notionally from the date of their juniors in the Regional



Seniority List were promoted with consequential fixation of pay. The Tribunal, taking into consideration the financial implications involved had stated that the applicants, if at all, will be entitled to arrears of pay only from the date of filing the original applications i.e., 12.12.2017.

3. Mr.V.Vijay Shankar, learned counsel appearing for the petitioners would submit that apart from the 1st respondent, the other respondents have already got the benefit of promotion. Before the Tribunal, they did not enter appearance and contest the application. He sought for permission of the Court to dispense with notice to them and take up the main writ petitions for disposal. Mr.Ulaganathan, learned counsel representing the 1st respondent also agreed this course of action. Accordingly, we dispense with notice to the private respondents.

4. The reliefs in both the writ petitions are identical and the facts are also similar.

5. The applicants were appointed as Stenographers Grade-III in the office of the writ petitioners in 1988. They were promoted to the post of Stenographer Grade-II in 1998 and from that post, they became Personal



Assistant in the year 2000. The cause of action for filing the original application before the Tribunal was that the promotion was granted with effect from 03.07.2017 as Private Secretary. Prior to the framing of the Employees' Provident Fund Organisation Stenographers Service Rules, 1998, there was a recommendation by the Executive Committee of the EPFO. It decided to restructure the post of Senior Personal Assistants/Personal Assistants/Stenographers in Grades-A, B, C and D. A direction was given that the promotion should follow the category of the ratio of 40 : 40 : 20 with respect to Stenographer, Personal Assistant and Private Secretary. This was brought into force on 22.09.1999. The rules were applied, even with respect to posts which were vacant, prior to the date of framing rules viz., 02.01.1999.

6. Aggrieved by the same, one Vinod Kumar Gover and others approached the Principal Bench of the Central Administrative Tribunal in O.A.No.2243 of 2001. The Tribunal was called upon to decide whether the rules published on 02.01.1999 would apply prospectively or would also apply to the vacancies which had occurred prior to the framing of the rules. Following the classic judgement of *Y.V.Rangaiah vs. J.Srinivas Rao* reported in *AIR 1983 SC 82*, the Tribunal was pleased to hold that



vacancies which occurred prior to the amended rules have to be governed by the old rules and not by the new rules. The order in Vinod Kumar Gover's case was not challenged by the writ petitioners and it was implicitly implemented by them. By virtue of that order, 40 persons who were Juniors to the applicants were promoted together with monetary benefit from 26.09.2000. In order to bring the applicants and 53 other on par with the Personal Assistants notionally they were promoted from 14.07.1997 and effect was given on 12.12.2003. While implementing the order, the benefit of promotion was granted to the Juniors of the 1st respondent in both the writ petitions whereas, the promotion to the post of Private Secretary was granted only in the year 2017 to both the writ petitioners. We have to point out prior to the framing of the rules, the promotions were granted on regional basis and after the new rules came into force from 02.01.1999, an All India Seniority is being maintained by the Department.

7. In the meantime, after the order passed by the Tribunal in O.A.No.2243 of 2001, the Juniors of the writ petitioners were promoted whereas the petitioners were languishing in the same post. The Central Administrative Tribunal had given a specific direction stating that the



respondents have to consider the petitioners before it, to be granted promotion as Personal Assistants with effect from 14.07.1997. The date is very crucial as that is the date on which the Executive Committee in its 23rd meeting had decided to restructure the post. Few others similarly situated Stenographers approached the Central Administrative Tribunal, Hyderabad Bench in O.A.No.237 of 2004. By an order dated 27.03.2006, the Hyderabad Bench of the Central Administrative Tribunal following the directions of the Principal Bench in Vinod Kumar Gover's case held that the applicants before it are entitled to promotion from 14.07.1997. Apart from these cases, one P.S.Jayasree filed O.A.No.42/2018 before the Central Administrative Tribunal at Bangalore Bench. She was also granted the relief. This order has not been challenged. The writ petitioners implemented the orders of the Central Administrative Tribunal in Bangalore as well as Hyderabad. They are challenging the order only with respect to two cases filed before the Central Administrative Tribunal at Chennai.

8. It is on record that the second petitioner by an order dated 03.07.2017 had promoted the 1st respondent in this writ petition and 8 others as Personal Secretary. Since they were not given retrospective



promotion from the date on which the juniors had been granted the promotion, the applicants had approached the Central Administrative Tribunal.

9. Mr.Vijay Shankar, learned counsel appearing for the writ petitioners would submit that there is a delay in approaching the Central Administrative Tribunal and therefore, the relief that they had sought for ought not to have granted.

10. We are not willing to accept this submission for the simple reason that it was only on 03.07.2017, the applicants came to know that their promotion is not from 14.07.1997 and that it is given effect from the date of the order. Laches cannot be attributed to them because the order was passed on 03.07.2017 and OA came to be filed on 30.11.2017. Furthermore, it is on record that the orders of the Central Administrative Tribunal of Delhi, Hyderabad and Bangalore filed by persons similarly situated as the applicants have already been accepted and implemented. Similarly placed persons must be treated similarly and any deviation from the same would offend the Article 14 of the Constitution of India. It is not the case of the writ petitioners that there are any circumstances which



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distinguish the case of the 1st respondent from the applicants in the other cases before the Central Administrative Tribunal, Delhi, Hyderabad or Bangalore.

11. In the light of the above, we find no reason to differ from the findings given by the Central Administrative Tribunal and we confirm the order as it is not tainted by any perversity, irrationality or arbitrariness. The writ petitioners are directed to convene the review DPC within a period of eight weeks from the date of receipt of a copy of this order and consider whether the applicants are entitled for retrospective promotion from 14.07.1997 and pass appropriate orders within four weeks thereafter.

12. With the above direction, both the Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

(V.M.V., J) (V.L.N., J)
02.03.2023

Index : Yes / No
Neutral Citation : Yes / No
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V.M.VELUMANI, J.
and
V.LAKSHMINARAYANAN, J.

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To

The Registrar,
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