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WP No.26279 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

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1.Union of India,
Represented by the Secretary,
Ministry of Railways, Railway Board,
Government of India, New Delhi.

2.The General Manager,
Integral Coach Factory,
Perambur, Chennai.

3.The Financial Advisor and
Chief Accounts Officer,
Integral Coach Factory/Fur,
Perambur, Chennai

... Petitioners

versus

1.S.Balasubramnian

2.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the records on the file of the second respondent in OA No.493 of 2013 dated 17.11.2016 and quash the same.

For the Petitioners :Mr.P.T.Ramkumar

For the Respondents :Ms.N.R.Jasmine Padma
for Mr.L.Chandrakumar
for first respondent
R2- Tribunal

ORDER

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

Challenging the order in OA No.493 of 2013 dated 17.11.2016, the petitioner Railways has filed the instant writ petition.

2. Learned Standing Counsel for the petitioner Railways has brought to the notice of this Court that following the decision in the case of R.Sethumadhavan and another in WP No.13207 of 2013 dated 02.08.2016, the instant OA has been allowed by the Tribunal. Challenging the said order passed by the Tribunal, the petitioner Railways has filed the present writ



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petition.

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3. Learned Standing Counsel for the petitioner Railways further submits that in the said case, the petitioner, Sethumadhavan who was working as Train Examiner, sought for a direction to recompute his basic pension based on PB 2 (Rs.9300-34800) plus Grade Pay Rs.4200/- w.e.f. 1.1.2006 with all consequential benefits. Against the said order of the Writ Court, the Department has filed an appeal before the Hon'ble Supreme Court in CC No.3173 of 2018. By judgment, dated 22.03.2018, the Hon'ble Supreme Court has set aside the order passed by the Writ Court, in favour of the petitioner Railways. The relevant portion of the Judgment is extracted hereunder:

15. Unfortunately, the High Court has not even referred to this judgment while taking a decision in favour of the respondent. Since the issue is squarely covered by the decision of this Court in K.S.Krishnaswamy and Others v. Union of India and Another (supra), the appeal must be allowed.

16. Yet another error made by the High Court is in assuming that the post of Train Examiner was re-designated as Junior Engineer Grade-II. There is nothing on record to suggest the re-designation. In fact the conclusion of re-designation is the sole basis on which the writ



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petition was allowed by the High Court and as mentioned above, we do not find any material on record to suggest the re-designation. Consequently, the entire basis of the decision of the High Court is erroneous, apart from the fact that the High Court did not advert to the decision of this Court in K.S.Krishnaswamy and Others v. Union of India and Another (supra) on the subject.

17. In the circumstances, we have no option but to set aside the impugned judgment and order of the Madras High Court and we do so accordingly. The appeal is allowed.

4. Learned Standing Counsel for the petitioner Railways submits that the aforesaid judgment of the Hon'ble Supreme Court squarely applies to the facts of the present case. Therefore, he seeks to set aside the order of the Tribunal and allow the instant writ petition.

5. The aforesaid legal submission made by the learned Standing Counsel for the petitioner Railway could not be controverted by the learned counsel for the respondent.

6. Thus, we are of the view that the decision of the Hon'ble Supreme



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Court cited supra squarely applies to the facts of the case on hand.

Therefore, accepting the contention of the learned Standing Counsel for the petitioner Railways, and considering the facts and circumstances of the case and the decision of the Supreme Court cited supra, the impugned order 17.11.2016, passed by the Tribunal is set aside and consequently, the writ petition stands allowed. There will be no order as to costs. Consequently, WMP No.27940 of 2017 is closed.

[D.K.K., J.] [P.D.B., J.]
19.10.2023

Index : Yes/No
Neutral Citation : Yes/No
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