

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK
Writ Petition No.28603 of 2011

ORDER : *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

This Writ Petition is filed by the petitioners under Article-226 of the Constitution of India seeking a 'Writ of Certiorari' by calling for records relating to the order passed by the Central Administrative Tribunal (for short, 'the Tribunal'), Hyderabad in O.A.No.431 of 2008, dated 02.06.2011 and to quash the same.

2. Heard the learned Deputy Solicitor General of India for the petitioners and Mr. M. Srikanth, learned counsel for respondents.

3. Learned Deputy Solicitor General of India appearing for the petitioners contended that the respondents are retired employees and after retirement, they were claiming first and second financial upgradation under Assured Career Progression Scheme (for short, 'ACP Scheme') on par with their juniors i.e., Sr. A.K. Shukat and S.K.Roy and the Tribunal was pleased to allow the O.A. vide

orders dated 02.06.2011 and directed the petitioners to extend the first and second financial upgradation as it was done in the case of juniors to the respondents without appreciating any of the contentions raised by the petitioners.

4. Learned counsel for the petitioners had further contended that the ACP Scheme upgradation is not dependent on junior or senior. As admittedly, the first and second final upgradation in ACP Scheme was extended to the respondents, the respondents could not have compared further that they are entitled for first and second financial upgradation under ACP Scheme on par with their juniors. This fact was not considered by the Tribunal and the Tribunal has mechanically allowed the O.A in favour of the respondents. Therefore, appropriate orders be passed in the writ petition by setting aside the orders passed by the Tribunal in O.A.No.431 of 2008, dated 02.06.2011 and allow the writ petition.

5. On the other hand, learned counsel for the respondents contended that the Tribunal was justified in allowing the O.A in favour of the respondents, as admittedly, the juniors to the respondent were drawing more pay scale than that of the respondents. In those set of circumstances, the Tribunal was justified in allowing the O.A in favour of the respondents. Moreover, the respondents are aged about 80 years as on today and on this ground also, the writ petition is liable to be dismissed.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the Tribunal was justified in allowing the O.A in favour of the respondents, as admittedly, juniors to the respondents were drawing more pay than that of the respondents and by applying Article 14 of the Constitution of India, the Tribunal was justified in allowing the O.A in favour of the respondents. Moreover, as of now, the age of the respondents is more than 80 years and on this ground also, this

Court is not inclined to interfere with the orders passed by the Tribunal.

7. With these observations, the Writ Petition is dismissed. No costs.

8. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

PULLA KARTHIK , J

Date: 24.01.2023
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