

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE PULLA KARTHIK**

W.P.No.25154 OF 2019

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

Aggrieved by the order dated 13.6.2019 passed in O.A.No.803 of 2016 by the Central Administrative Tribunal, Hyderabad, the present writ petition has been filed.

2. Heard Sri G.Praveen Kumar, learned Deputy Solicitor General of India, appearing for the petitioners and Smt Anita Swain, learned counsel appearing for the respondent.

3. It is the case of the petitioners that while working as Trades Man "F", the respondent has taken voluntary retirement on 31.05.2001 and he has completed only 31 years of service and not completed 33 years of service for full pension and hence, the pension of the respondent

was fixed on prorate basis. Thereafter, the Government of India has issued Office Memorandum dated 06.04.2016 wherein it was stated that the persons who retire after 2006, there was delinking of revised pay for qualifying service of 33 years and the memo is applicable only to those persons who have retired on or before 01.01.2006. Admittedly, the respondent has retired from service prior to 01.01.2006 but there was no delinking for qualifying service of 33 years. Hence, the respondent has approached the Tribunal by filing O.A.No.803 of 2016 contending that the benefit of Office Memorandum dated 06.04.2016 should be extended to him also. Without appreciating any of the contentions raised by the petitioners, the Tribunal *vide* order dated 13.06.2019 allowed the OA in favour of the respondent. Hence, the present writ petition.

4. Learned Deputy Solicitor General of India appearing for the petitioners had contended that appropriate orders be passed in the writ petition by setting aside the order dated 13.06.2019 passed in O.A.No.803 of 2016 by the Tribunal.

5. Learned counsel appearing for the respondent had contended that when the Office Memorandum dated 06.04.2016 was not extended to the persons who have retired prior to 2006, one M.O.Enasu has approached the Central Administrative Tribunal, Ernakulam Bench, by filing O.A.No.715 of 2012 and the Ernakulam Bench *vide* order dated 16.08.2013 directed the respondents therein to extend the revised Pension Payment Order to the applicants therein specifying the pension on the basis of para 4.2 of the Office Memorandum dated 01.09.2008 i.e., 50% of the minimum of the pay in the Pay Band plus

Grade Pay of the Deputy Office Superintendent and also corresponding family pension and grant all consequential benefits including arrears of pension within a period of two months from the date of receipt of that order. Aggrieved by the order passed by the Ernakulam Bench, the respondents therein had carried the matter to the Kerala High Court and the Kerala High Court also dismissed the writ petition. Later, the respondents therein had carried the matter to the Apex Court and the Apex Court has also dismissed the case preferred by the respondents therein. Learned counsel had further contended that by following the order passed by the Central Administrative Tribunal, Ernakulam Bench in O.A.No.715 of 2012, dated 16.08.2013, the Tribunal allowed the OA in favour of the respondent therein.

Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

6. Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal was justified in allowing the OA by following the order passed by the Central Administrative Tribunal, Ernakulam Bench, in O.A.No.715 of 2012, dated 16.08.2013, which was confirmed by the Kerala High Court as well as by the Apex Court. Therefore, this Court is not inclined to interfere with the order passed by the Tribunal.

7. Accordingly, the Writ Petition is dismissed. However, it is needless to say that the respondent is entitled for all the benefits with effect from 01.01.2006. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE PULLA KARTHIK

Date: 09.02.2023
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