



W.P.No.133



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2024

CORAM:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
and
THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

**W.P.No.1337 of 2024
and W.M.P.No.1370 of 2024**

1.Union of India,
Rep. by The General Manager,
Southern Railway,
Park Town, Chennai – 600 003.

2.The Senior Divisional Personnel Officer,
Tiruchirappalli Division,
Southern Railway,
Trichy – 1.

...Petitioners

VS.

1.The Registrar,
Central Administrative Tribunal,
Chennai.

S.Swaminathan (died)
Retd. Master Crafts Man,
(now Sr.Techincian)

2.S.Gunasekaran
3.S.Santhi
4.S.Latha

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a
Writ of Certiorari to call for the records relating to O.A.No.310/00033 of 2016
dated 03.08.2022 on the file of the 1st respondent and quash the same.



For Petitioners : Mr.K.Subbu Ranga Bharathi

ORDER

(Order of the Court was delivered by K.KUMARESH BABU, J.)

The Writ Petition has been filed challenging the order passed by the Tribunal wherein the Tribunal had quashed the order dated 26.03.2013 passed by the second petitioner herein and had issued a direction to the petitioners to recompute the basic pension of the employee with effect from 01.01.1996.

2.We have heard Mr.K.Subbu Ranga Bharathi, learned counsel appearing for the petitioners.

3.Learned counsel appearing for the petitioners would submit that one Swaminathan who was employed as a Master Craftsman with the second petitioner had superannuated on 31.03.1994 and his pension was fixed as Rs.840/- per month plus Dearness Allowance. His pension was further revised with effect from 01.01.1996. A Circular dated 16.10.1997 was issued replacing the Scale of Pay on which basis, the pension was also recalculated for certain employees. However, for the post of Master Craftsman, the higher replacement of Scale of Pay was not given. However, by a further Circular dated 24.11.1998 such higher replacement scale was given to the Master Craftsman with



WEB COPY

of 6th Central Pay Commission, the employee basic pension was initially revised as Rs.6,750/- with reference to P.B. 2 as per order dated 14.02.2013. However, by order dated 26.03.2013, it was revised to Rs.5,773/- with reference to P.B. 1 instead of P.B. 2. The employee had made a representation that his pension should be revised to 50% of quantum corresponding to the pay in P.B. 2. However, the petitioners declined to fix the said pay and passed the order impugned before the Tribunal. The Tribunal without considering the materials & relevant facts had allowed the application.

4.We have considered the submissions made by the learned counsel appearing for the petitioners and perused the materials available on record.

5.The main bone of contention of the petitioners is that the employees who retired prior to 01.01.1996 were not entitled to the benefit of revised Pay Scale. It is to be seen from the admitted facts that the employee in the present case had been given a benefit of a Circular even as early as in the year 1998 and his pension had been refixed based on such fixation of higher Pay Band. It is not disputed by the petitioners that such revision of pension based on a subsequent higher Scale of Pay in the post held by him was not extended to the employee. It is also admitted that the Railway Board had issued guidelines in RBE No.8/1999 dated 15.01.1999 that pension of all pensioners irrespective of the date of



retirement shall not be less than 50% of the minimum pay in the revised Scale of Pay introduced with effect from 01.01.1996 for the post held by the employee.

6. Much reliance had been placed by the learned counsel for the petitioners on the subsequent O.M. of the year 2001 which withdrew the benefit given under the O.M. stated supra. The Tribunal had in *extenso* considered the various O.Ms. as well as the judgments relied upon by either side. The Tribunal had also referred to a judgment of the Hon'ble Apex Court in Agia Ram's case has also a Full Bench judgment of the Principal Bench which was affirmed by the various High Court in similar situations where the benefit of higher Pay Scale even to pre-2006 retirees have been reiterated, to come to the conclusion that the employee herein cannot be discriminated from similarly placed employees.

7. In such view of the matter, we do not find any infirmity or error in the order impugned before us.

8. In fine, the Writ Petition fails and is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

9. It is pertinent to note that the order impugned in this Writ Petition had been made by the Tribunal as early as in August 2022 granting three months time



to the petitioners to comply with the same, failing which had awarded 9% interest if the payment is not paid within the said period, such time had expired long back.

10. In such circumstances, we grant petitioners a further time of eight weeks to comply with the order passed by the Tribunal. If such order is not implemented within a period of eight weeks from the date of receipt of a copy of this order, the petitioners shall pay the interest as directed by the Tribunal for the belated payment.

(R.S.K.,J.) (K.B.,J.)
23.01.2024

Index: yes/no
Speaking order: yes/no
Neutral Citation: yes/no
pam

To

The Registrar,
Central Administrative Tribunal,
Chennai.



WEB COPY

W.P.No.133



R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

Pam

W.P.No.1337 of 2024

23.01.2024