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W.P.No.28217 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.04.2026**

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No. 28217 of 2024

and

W.M.P.Nos. 30769 and 30771 of 2024

1. Union of India

Rep.by The General Manager,

Southern Railway, Park Town, Chennai – 600 003.

2. The Senior Divisional Operation Manager

Thiruchirapalli Division

Southern Railway

Thiruchirapalli – 620 001.

.... Petitioners

Vs

1. The Registrar

The Central Administrative Tribunal

Chennai Bench, Chennai – 104.

2. M.Govindarajan

Retd.Master Craftsman

No.P 13, M.M.D.Store, Kuni Bazaar Street,

Bheema Nagar, Trichy -1.

.... Respondents



Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying to issuance of Writ of Certiorari, calling for the records pertaining to the order dated 21.12.2023 passed in O.A.No.13 of 2016 on the file of the first respondent, and quash the same.

For Petitioners : Mr.A.R.Sakthivel

For Respondents : R1 – Tribunal

No appearance for R2

ORDER

(Order of the Court was made by P.VELMURUGAN, J.)

This Writ Petition is directed against the order passed by the Central Administrative Tribunal, Chennai, in O.A.No.13 of 2016 dated 21.12.2023, whereby the Tribunal allowed the claim of the second respondent for re-computation of pension based on a higher replacement scale.

2. According to the petitioners, the second respondent herein retired from service on 30.09.1994 on attaining the age of superannuation, as Master Craftsman, drawing a last pay of Rs.1,640/- in the scale of Rs.1400-2300 under the IV Central Pay Commission. On retirement, his pension was sanctioned at Rs.2,387/- plus Dearness allowances, corresponding to the replacement scale of Rs.4500-7000 under the V Central Pay Commission. Thereafter, pursuant to the



Railway Board's circular dated 15.01.1999, his pension was revised to Rs.5,599/- in Pay Band Rs.5200-20200 with Grade Pay of Rs.2800/- with effect from 01.01.2006. It was further submitted that as per the Office Memorandum dated 11.05.2001 and the Railway Board's communication dated 20.08.2001, the benefit of higher replacement scales is admissible only to employees who were in service as on 01.01.1996. The Hon'ble Supreme Court, by judgment dated 23.11.2006 in Civil Appeal No.3174 of 2006, has affirmed that pre-1996 pensioners are not entitled to claim revision of pension on the basis of higher replacement scales. Since the second respondent retired prior to 01.01.1996, he is not entitled to claim the benefit of the higher replacement scale of Rs.5000-8000. However, the second respondent approached the Tribunal in O.A.No.13 of 2016 seeking a direction to the petitioners to re-compute his pension in Pay Band-II Rs.9300-34800 with Grade Pay of Rs.4200/- with effect from 01.01.2006, along with all consequential benefits. The Tribunal, without advertng to the settled legal position governing pre-1996 pensioners, allowed the application by order dated 21.12.2013. The re-fixation of pension under VI Central Pay Commission corresponding to the scale of Rs.4500-7000 is held to be proper and legally sustainable and the impugned order of the Tribunal is liable to be set aside.

3. We have heard the learned counsel for the petitioners and perused the materials available on record.



4. Despite service of notice, there is no representation for the second respondent either in person or through counsel.

5. Learned counsel for the petitioners advanced his submissions as already recorded herein above, contending that the second respondent, being a pre-1996 pensioner, is not entitled to claim revision of pension with reference to the higher replacement scale reserved for those who were in service as on 01.01.1996. It was further contended that the reliance placed by the Tribunal on the communication dated 09.11.2013, suggesting issuance of a revised Pension Payment Order, fixing pension at Rs.6,750/-, is wholly misconceived, since the said communication is not in line with the judgment of the Hon'ble Supreme Court in *K.S.Krishnaswamy vs. Union of India*, wherein it has been categorically held that pre-1996 pensioners are not entitled to the benefit of higher replacement scales. It was further contended that the Tribunal erred in observing that the post of Master Craftsman stood re-designated as Senior Technician with a scale of Rs.5000-8000 under the V Central Pay Commission and Pay Band-II with Grade Pay Rs.4200 under the VI Central Pay Commission. However, such a finding is factually incorrect and unsupported by any material on record. Further, the reliance placed by the Tribunal in the case of *Union of India (Southern Railway General Manager) vs. R. Sethumadhavan*, reported in *AIR 2018 SC 1891* was also sought to be distinguished on the ground that the said decision was rendered in the absence of complete factual and documentary materials and therefore, cannot be applied to the present case.



6. In support of his contentions, the learned counsel for the petitioners placed reliance on the Division Bench decision in *Union of India v. G. Vadamalai* (W.P.No.7672 of 2018), wherein it has been unequivocally held that employees who retired prior to 01.01.1996 are not entitled to claim revision of pension based on higher replacement scales. The relevant portion of the said order is extracted hereunder:

“6.1. The said Railway Board's clarification order vide letter dated 20.08.2001 was challenged before the various Courts. Finally the Hon'ble Supreme Court in Civil Appeal No.3174 of 2006 dated 23.11.2006 decided that “the pre-1996 pensioners are not eligible for revision of pension with reference to the higher replacement scale as applicable to those who are in service as on 01.01.1996”. This petitioner retired on 28.02.1995 ie., prior to 1996. Therefore, he is not entitled to the fixed pension in higher replacement scale of Rs.5000-8000 and that the pension revised in scale of Rs.4500-7000 with effect from 01.01.1996 stands correct. But the Tribunal has relied on the judgment of the Ernakulam Bench and allowed the Original Application filed by the 1st respondent and directed the petitioners' department to refix the pension of the 1st respondent at 50% of the minimum of the Pay Band plus Grade Pay of the VI Pay Commission Pay Scale of Rs.9300-34800 plus Grade Pay Rs.4200/- ie., at Rs.6750/- w.e.f. 1.1.2006 and also to refix his pension as per the VII CPC w.e.f. 1.1.2016 and to grant him all consequential benefits within a period of three months. The Tribunal has failed to consider the above decision of the Hon'ble Supreme Court.

6.2. The learned counsel appearing for the petitioners has relied upon the decision in K.S.Krishnaswamy and others v. Union of India and another reported in (2006) 13 Supreme Court Cases 215 wherein the Hon'ble Supreme Court in Para-17 held as follows:-

“17. The main thrust of the submissions of learned counsel for the appellants is that the OM dated 11-5-2001 overrides the original OM dated 17-12-1998 and creates two classes of pensioners. We are unable to accept this contention. As noticed above, the recommendations of the Fifth Pay Commission were accepted to the extent of policy resolution dated 30-9-1997. The aforesaid Policy Resolution was further clarified by



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issuing instructions in OM dated 17-12-1998, which were clarified by another executive instructions in OM dated 11-5-2001. It is well-settled principle of law that recommendations of the Pay Commission are subject to the acceptance/rejection with modifications of the appropriate Government. It is also well-settled principle of law that a policy decision of the Government can be reviewed/altered/modified by executive instructions. It is in these circumstances that a policy decision cannot be challenged on the ground of estoppel. In the present case, the recommendations of the Fifty Pay Commission were accepted by a Policy Resolution dated 30-9-1997 that the ceiling on the amount of pension will be 50% of the highest pay in the Government. The pension of all pre-1-1-1996 retirees including pre-1986 retirees shall be consolidated as on 1-1-1996, but the consolidated pension shall not be brought on to the level of 50% of the minimum of the revised pay of the post held by the pensioner at the time of retirement. The subsequent OM dated 17-12-1998 clarified the Policy Resolution dated 30-9-1997 by executive instructions in OM dated 17-12-1998 and further clarified in the form of OM dated 11-5-2001 clarifying the contents of Policy Resolution of the Government dated 30-9-1997. They are both complementary to each other. Both clarify the government Policy Resolution dated 30-9-1997. The appellants are not aggrieved by the executive instructions in OM dated 17-12-1998. In our view, therefore, the contention of the appellant that the OM dated 11-5-2001 overrides the original OM dated 17-12-1998, thereby creating two classes of pensioners is absolutely illfounded and untenable”.

7. Further, the learned counsel for the petitioners also relied upon the judgment of this Court in the case of Union of India v. N. Ramasamy and another in W.P. No.19697 of 2017 dated 03.12.2018, wherein this Court allowed the said Writ petition by setting aside the order of the Tribunal and directed to consider the matter afresh.

8. In the present case also, the facts are identical and therefore the order of the Tribunal is liable to be set aside by allowing this petition. The Tribunal has mainly relied upon the judgment of Ernakulam Bench but the said facts are distinguishable and thereby the said judgment will not be applicable to the facts of the present case.



9. Therefore as discussed supra and in view of the above said judgment, we are inclined to set aside the order of the Tribunal. Accordingly, the order of the Tribunal is set aside and the matter is remitted back to the Tribunal to consider afresh to dispose the Original Application on merits within a period of 12 (twelve) weeks from the date of receipt of a copy of this order and both parties have to co-operate for the early disposal of the case.”

Therefore, it was submitted that the Tribunal’s order, being contrary to statutory instructions and binding precedent, warrants interference.

7. It is not in dispute that the second respondent retired from service on 30.09.1994, i.e., prior to the cut-off date of 01.01.1996 prescribed for the grant of the higher replacement scale. The Office Memorandum dated 11.05.2001 and the Railway Board’s letter dated 20.08.2001 clearly restrict the benefit of higher replacement scales to employees in service as on 01.01.1996. The Hon’ble Supreme Court in *K.S. Krishnaswamy and others v. Union of India and another* reported in [(2006) 13 SCC 215] as well as the Division Bench of this Court in *Union of India vs. G. Vadamalai* [W.P.No.7672 of 2018], have categorically held that the employees who retired prior to 01.01.1996 are not entitled to claim revision of pension with reference to the higher replacement scale. The aforesaid pronouncements squarely govern the case on hand. In the present case, the second respondent, having admittedly retired prior to 01.01.1996, cannot claim parity with those who continued in service as on the said date. The Tribunal, while allowing the application, failed to take into consideration the binding statutory instructions as well as the settled law laid down by the



Hon'ble Supreme Court. Further, the finding of the Tribunal with regard to re-designation of the post and entitlement to higher scales is not supported by any cogent materials and cannot form the basis for grant of such relief.

8. In these circumstances, this Court is of the considered view that the fixation of pension of the second respondent in the scale of Rs.4500-7000 is in accordance with law, and the claim for a higher scale of Rs.5000–8000 with Pay Band-II and Grade Pay of Rs.4200/- is unsustainable. Hence, the order dated 21.12.2013 passed in O.A.No.13 of 2016 by the Central Administrative Tribunal is set aside. The writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

(P.V.,J.) (K.G.T.,J.)

02.04.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Registrar

The Central Administrative Tribunal

Chennai Bench, Chennai – 104.

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