

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 07th day of March Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/271/2019

&

O.A. 310/272/2019

1. Dr. G. Ramamoorthy
TGT (Science) (Retd) {Emp Code:
E-252, 12th / 4th Cross Road,
Periyar Nagar, Chennai- 600 082.

....Applicant in OA. 271/2018

2. G. Rudraiah,
PGT (Maths) (Rtd.) {Emp Code: 10236}
No.11/9, 26th Street,
Astalakshmi Nagar, Chennai- 600 116.

....Applicant in OA. 272/2018

(By Advocate: M/s. R. Arumugam)

Versus

1. Commissioner,
Kendriya Vidyalaya Sangathan,
Head Quarters, 18 Institutional Area,
Shahid Jeetsingh Marg, New Delhi- 110 016;
2. Deputy Commissioner,
Hyderabad Region,
Picket, Secunderabad- 500 009;
3. Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Chennai Region,
IIT Campus, Chennai- 600 036.

.....Respondents in both the OAs

(By Advocate:)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. Since the issue involved and the relief sought in both cases appears to be one and same, both the OAs are disposed of by this common order.


2. Applicants have filed this OA seeking the following reliefs:-

"a) call for the original files(s)/record(s) of the 1st respondent authority relating to passing of the impugned letter bearing F.No.110125/2019/KVS/CPF/118 to GPF dated 17.01.2019 and quash the same as illegal in respect of applicant in O.A. 271/2019;

a) call for the original files(s)/record(s) of the 1st respondent authority relating to passing of the impugned letter bearing F.No.110125/2019/KVS/CPF/119 to GPF dated 17.01.2019 and quash the same as illegal in respect of applicant in O.A. 272/2019


b) For a declaration that the applicants deemed to have come under the GPF (Pension Scheme) in terms of the Policy under 1st respondent authorities O.M. in F.No. 152-1/79-80/KVS/Budget/Part-II dated 1-9-1988 with effect from 01.02.1989 and consequently extend the benefit of GPF (Pension) scheme to both the applicants."

3. The applicant in OA. 271/2019 had previously filed O.A. No. 1290/2018 which was disposed of by Annexure-A/22 order dated 28.09.2018. The applicant in O.A. 272/2019 had previously filed OA No. 1233/2018 which was disposed of Annexure -A/19 order dated 18.09.2018. The competent authority was directed to consider the applicant's



representation to be made in the light of the order of the Hon'ble Madras High Court in W.P. No. 16467/2017 dated 23.08.2018 in accordance with law and pass a reasoned and speaking order within a period of two months thereafter. The applicant in O.A. 271/2019 submitted Annexure -A23 representation dated 17.10.2018 while the applicant OA. 272/2019 submitted Annexure A-20 representation dated 16.10.2018 in pursuance thereof. The representations were rejected by Annexure A/24 in O.A. 271/2019 and Annexure A/21 in O.A. 272/2019 communication dated 17.01.2019 Aggrieved by the said communication, the applicants have filed separate OAs before this Tribunal in this second round of litigation.

3. Learned counsel for the applicants would submit that a clear direction was given to the respondents in the aforesaid OAs to consider the fresh representation to be submitted by the applicant relying on the order of the Hon'ble High Court in accordance with law and pass a reasoned and speaking order. However, neither does the impugned communication makes a reference to the order of this Tribunal nor is there any evidence that the ratio of the order of the Hon'ble Madras high Court in W.P. No. 16467/2017 dated 23.08.2018 was considered while passing the impugned orders. The Order of the Hon'ble High Court of Madras in the said W.P. had in turn relied on a more detailed order passed in the case of N. Subramanian Vs. Commissioner & 3 Ors. in W.P.19215 of 2015 dated 24.2.2017 reported in 2017 STPL 9496 which is at Annexure A-25 to the O.A.271/2019. As the impugned orders had been passed without any scrutiny of law, they are liable to be set aside, it is contended.



4. Learned counsel for the applicants further submits that as the impugned orders have not been passed in accordance with law and in the light of the orders of the Hon'ble High Court, the applicant would be satisfied if the same are set aside and the respondents are directed to strictly comply with the orders already passed by this Tribunal in OA 1290/2018 dated 28.09.2019 and in OA. 1233/2018 dated 18.09.2018.
5. I have considered the matter. Although the two OAs are still at admission stage and notice has not yet been issued to the respondents, I am of the view that inasmuch as the impugned orders make no reference to the order of this Tribunal permitting the applicants to make a fresh representation to the competent authority relying on the order of the Hon'ble Madras High Court dated in W.P. No. 16467/2017 dated 23.08.2018 in a similar case, prima facie, it is clear that the matter had not been considered in accordance with the directions of the Tribunal. Further, the rejection of the representation had been communicated by the Assistant Commissioner (Fin) whereas the direction was to the respondents in the aforesaid OAs, namely, Commissioner, Headquarters, Kendriya Vidyalaya Sangathan, New Delhi.
6. As it is not recorded in the impugned communication that it issued with the approval of the first respondent therein and also seeks to rely on letter of Ministry of HRD vide Itter No. F.3-14/2012-UT-2 dated 07.04.2015 as against the order of the Hon'ble Madras High Court dated 23.08.2018, keeping in view the submission of the counsel for the applicants in both the



O.As, I would like to give an opportunity to the competent authority to review the said communications and pass a fresh reasoned and speaking order in the light of the order of the Hon'ble Madras High Court in W.P. No. 16476/2017 dated 23.08.2018 and the order of the Hon'ble Madras High Court in W.P. No. 19215/2015 dated 24.2.2017 within a period of two months from the date of receipt of copy of this order.

6. Both OAs are disposed of in the above terms. No costs.