

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00111/2013

Dated the 02nd day of June Two Thousand Twenty

**CORAM : HON'BLE MR. P. MADHAVAN, Member (J)
HON'BLE MR. T. JACOB, Member (A)**

1. Hema Seshachary, W/o. Late V. Seshachary,
 2. Vijayalakshmi, W/o. Late G. Naganathan,
 3. Parvathi, D/o. Late K. Sundaresan,
 4. Sivaramakrishnan, S/o. Late K. Sundaresan,
 5. Vijayalakshmi, D/o. Late K. Sundaresan,
 6. T.V.Balakrishnan,
 7. K.Subbiah.
-Applicants

By Advocate M/s. R. Singaravelan

Vs

1.Union of India rep by
The Secretary to Govt of India,
Ministry of Information and Broadcasting,
New Delhi 1.

2.The Director,
Government of India,
Ministry of Personnel, Public Grievances & Pensions,
(Department of Personnel & Training),
New Delhi 110001.

3.The Anomaly Committee,
VI Central Pay Commission rep by the
Chairman/Joint Secretary (Administration),
Ministry of Information & Broadcasting,
Government of India,
Sastri Bhavan, New Delhi.

....Respondents

By Advocate Mr. K. Rajendran

ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

This is an OA filed seeking the following relief:-

"To call for the records on the file of the first respondent in connection with the order passed by him in his proceedings dated 26.02.2013 and consequently direct the respondents to extend the benefit of fixation of 50% pay of the minimum pay in the revised scale of pay introduced with effect from 01.01.1986 of the post held by the applicants with effect from the date of his retirement as given to the other similarly situated candidates H.L.Nagarja and K.S.Sivaswamy with 18% interest per annum by following the Hon'ble Apex Court judgment in Civil Appeal No. 5066/2008 dated 09.09.2008 or pass any other appropriate order or direction as this Hon'ble Court may deem fit in the circumstances of the case and thus render justice."

2. The main point to be decided in this case whether the applicants in this case are entitled to get 50% of the minimum pay in the revised scale of pay introduced with effect from 1-1-86 of the post held by the applicant in accordance with the pay fixed for H.L Nagaraja and K.S. Sivaswamy as per judgement of the Hon'ble Supreme Court in Civil Appeal no. 5066/08 dt. 9-2-08.

3. The applicants were Supdt. Engineers who had completed 13 years of service in Group A. They are eligible for pay scale of Rs 14300-18300 w.e.f 1-1-1996. As per the Memorandum No.F 45/10/98-P&W(A) Govt. of India, DOPT, Dt. 17-12-98, the President was pleased to decide that w.e.f. 1-1-1996 pension of all pensioners irrespective of date of retirement shall not be less than 50% of the maximum pay in the revised scale of pay

introduced w.e.f. 1-1-1996 of the post last held by the pensioner. The dept. refused to give the benefit of the memorandum dt. 17-12-98. The applicants approached the Tribunal by filing OA524/11 and this Bench allowed the OA in favour of the applicants. The dept. filed Writ Petition against the order before the Hon'ble Madras High Court. While the above WP was pending, the dept. produced a clarificatory OM dt 11.5.2001 issued by the govt. before the Hon'ble Madras high court and the High Court set aside the order of this Tribunal. The applicants filed Civil Appeal No 3174 and 3173/2004 and the Hon'ble Apex court confirmed the decision of the High Court and dismissed the Civil Appeal. According to the applicants one H.L Nagaraja had filed an OA before the Bangalore Bench of this Tribunal and the Bangalore bench gave a decision in favour of the applicants therein. The respondents filed a Writ Petition before the Hon'ble High Court at Bangalore and the High Court had confirmed the decision of the Tribunal. The respondents therein did not file any appeal and said decision became final to the applicant. The order of the tribunal was implimented for H.L Nagaraja and his pension was fixed accordingly. The respondents had given similar benefits to one K.S. Sivaswamy(who retired on 30-9-86). This was given because Sivaswamy retired after 1-1-1986 which was the cut-off date fixed by the govt. The applicants who had

retired prior to 1-1-1986 were not given the same benefit. According to the applicants, the Hon'ble Apex Court in SLP(civil)No 12357/06 had held that discrimination in pension on the basis of before and after a cut off date is arbitrary.

4. The applicants filed OA 584/11 on the basis of the decision of Bangalore High Court and the Tribunal had directed the applicants to give a representation to the respondents stating the details and the respondents were directed to consider and dispose of the representation in the light of the decision of the Bangalore bench within a period of 4 weeks. But nothing happened. Since no contempt petition was filed within a period of one year, the applicants filed this OA.

5. The respondents filed a detailed reply and submitted that the applicants herein had retired from service between 1983 and 1985. They cannot be brought under the revised scale of pay as claimed by them. The respondents filed Writ Petition before the Hon'ble Madras High Court against the order passed in OA 584/11 and the Hon'ble High Court has set aside the order of the Tribunal. The applicants filed spl. leave application before the Hon'ble Apex Court as CA No.3174 and 3173/2006 and the Apex Court had confirmed the order of the High Court and held that there is nothing wrong in the clarificatory order dt.11-5-2001 on the basis of

which High Court had set aside the order of the Tribunal. So according to the respondents the Hon'ble Supreme Court had considered all aspects of the case and the question cannot be agitated in a different form. The respondents had passed a speaking order on the representation given by the applicants on 26-2-13(vide annexure R4 to 6) and hence the OA is liable to be dismissed as infructuous.

6. We had heard the counsels appearing for both sides. On a perusal of the judgement of the Hon'ble Apex Court dt.23-11-06, it can be seen that the Apex Court had discussed all aspects of the matter and found that there is no merit in the contentions of the applicants who were the appellants before the Supreme Court. The Apex Court had also discussed the case in **D.S Nakara v Union of India(1983) 1 SCC 305** where in Apex Court held that liberalised pension scheme become operative to all pensioners governed by 1972 rules irrespective of the date of retirement. It was also held that D.S Nakara case has no applicability to the appellants case. The respondents had pointed out that Sri. Nagaraja had obtained an order in his favour and the dept. had implimented the same as a judgement in personam. As regards Sivaswamy's case is considered, he retired after 1986 and his case is different. So, we find that the subject matter is already decided by the Supreme Court finally as far as appellants are

concerned and the same subject cannot be agitated again and again. So we find that the OA has no merits and it is liable to be dismissed.

7. The OA will stand dismissed. No costs.

(T.Jacob)
Member(A)

(P. Madhavan)
Member(J)

02.06.2020

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