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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.427/89.

Date of Judgment 26-2-91

V.Nanna Rao

.. Applicant

Vs.

Govt. of India
represented by its

1. Secretary,
Ministry of Finance
(Dept. of Expenditure),
New Delhi.

&

2. Secretary,
Ministry of Communications,
New Delhi.

3. Chief Postmaster-General,
A.P. Circle,
Hyderabad.

.. Respondents

Counsel for the Applicant : Shri S.Ramakrishna Rao

Counsel for the Respondents : Shri N.Bhaskara Rao, Addl.CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri V.Nanna Rao
against the Govt. of India represented by its Secretaries,
Ministry of Finance (Dept. of Expenditure) & Ministry of
Communications, New Delhi and the Chief Postmaster-General,
A.P. Circle, Hyderabad under section 19 of the Administrative
Tribunals Act, 1985.

2. The applicant who joined the Postal Department in February, 1937 retired on superannuation on 31.7.⁷⁵(85). He was initially sanctioned pension in accordance with the CCS (Pension) Rules, 1972 at 33/80 of average emoluments for 36 months exclusive of any element of D.A. He was also given D.C.R.G. of only 14½ times of the last pay drawn. There had been successive liberalisation orders subsequently but all of them have been made applicable only to persons retired on or after a certain cut off date. One of these liberalisation orders (Ministry of Finance O.M.No. 19(3) E.V/79 dated 25.5.79) introduced a slab system applicable to those who retired ~~from~~ on or after 30.9.79 but in the light of the well known judgment of the Hon'ble Supreme Court in the case of D.S.Nakara & others Vs. Union of India (1983 A.I.R. SC 130) the Govt. of India extended this system to those who retired ^{earlier} ~~prior to 30.9.79~~ also. The applicant is a beneficiary of this decision. But other items of liberalisation have not been extended to him since he retired before the cut off dates. 25 persons placed similar to the applicant filed a W.P.No.1710/80 in the Andhra Pradesh High Court. The Andhra Pradesh High Court allowed their case. The respondents filed a Writ Appeal No.795/83 which was dismissed by the Andhra Pradesh High Court. The respondents examined the question of going in appeal to the Supreme Court but were advised by the Attorney General that it was not a fit case. Accordingly, the Postmaster-General A.P. Circle, Hyderabad vide his letter dated 15.11.84 advised all the subordinate units to implement the decision

~~of the decision~~ of the High Court. Another appeal was filed by one Shri D.Krishna Mohan Rao (W.P.No.1301/85). This was also allowed by the High Court. It is stated by the applicant that despite the opinion of the Attorney General of India the Govt. of India filed a Special Leave Petition against the Writ Petition and Writ Appeal in the Andhra Pradesh High Court and this was dismissed at the stage of admission. The applicant also quotes the case of Shri P.R.Seshan, Retired Asst. Director of Postal Services, Madras adjudicated by the Madras Bench of this Tribunal in O.A.No.322/87. It is the contention of the applicant that the benefits flowing from the judgment of courts should be available to others similarly placed. He has prayed that he be given the following reliefs:

- (1) Recomputation of pension merging D.A. at 272 points of cost of living index with pay effective from 30.9.1977.
- (2) Payment of cash in lieu of leave at credit on retirement as per letter No.14028/1/77-E.V(A) dated 29.10.1977.
- (3) Payment of residual Death-cum-Retirement Gratuity of 2 months as per G.I., M.F., O.M.No.F.1(14)-EV(B)/76 dated 22.9.1977.

3. The application is opposed by the respondents. It is their contention that ~~the~~ since the applicant retired before the cut off dates ~~in~~ the various orders of the Government he is not entitled to the same. It is also contended by them that in the case of D.S.Nakara & others Vs. Union of India (1983 A.I.R. SC 130) the Supreme Court considered only the case of slab system and that they did not pass any

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orders regarding the other parameters. It is also contended by them that the Special Leave Petition which they filed against the judgment of the Andhra Pradesh High Court was dismissed by the Supreme Court only on grounds of delay and not on merits. They filed a review petition against the order of the Supreme Court dated 28.7.86 but without success. Regarding the W.P.No.1301/85 filed by Shri D.Krishna Mohan Rao the respondents had filed an S.L.P. No.9971/85 and the Supreme Court had ordered that this S.L.P. may be posted alongwith another S.L.P.No.10379/86 (Union of India Vs. P.N.Menon). As regards the case of Shri P.R.Seshan Vs. Union of India adjudicated by the Madras Bench, it is stated that the Department had filed an S.L.P. No.7049/89 and the Supreme Court by its order dated 24.7.89 had stayed the order of the Madras Bench. It is also pointed out by them that the Supreme Court in its order dated 14.1.87 in Civil Appeal No.897/87 between Union of India and All Service Pensioners' Association & others had ruled out that D.S.Nakara & others Vs. Union of India's case was not applicable to the payment of gratuity. Quoting all these the respondents opposed the granting of the prayer sought for by the applicant.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. The short point before us is whether in view of the number of S.L.Ps filed by the respondents and of the stay of the order of the Madras Bench the applicant before us is entitled to the relief asked for or not. We find that the prayer contained

To

1. The Secretary, Government of India,
Ministry of Finance . . .
(Dept.of Expenditure), New Delhi.
2. The Secretary, Ministry of Communications
New Delhi.
3. The Chief Postmaster-General,
A.P.Circle, Hyderabad.
4. One copy to Mr.S.Ramakrishna Rao, Advocate
1-10-29, Ashoknagar, Hyderabad.
5. One copy to Mr.N.Bhaskara Rao, Addl. CGSC.CAT.Hyd-Bench.
6. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
7. One copy to Hon'ble Mr.R.Balasubramanian, Member(A)CAT.Hyd.
8. One spare copy.

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in the application before us is the same as that of Shri P.R.Seshan in O.A.No.322/87 before the Madras Bench. By order dated 24.2.89 of the Madras Bench of this Tribunal the applicant therein got all the reliefs sought for. However, as averred by the respondents, this order of the Madras Bench has been stayed by the Supreme Court and there is no point at this stage in our extending the same benefit to the applicant herein. However, we find that in pursuance of the Andhra Pradesh High Court orders which had been upheld by the Supreme Court, the Postmaster-General, A.P.Circle, Hyderabad vide his letter No.LC.39/80 dated 15.11.84 (A9) had ordered that action to implement the judgment of the Andhra Pradesh High Court be taken. Accordingly, the 25 applicants who filed W.P.No.1710/80 successfully had been given the benefit. There are a number of court decisions stating that the benefit of the judgment passed in one case should also be available to others similarly placed. The applicant before us is placed in a position similar to the 25 applicants who were in W.P.No.1710/80 of the Andhra Pradesh High Court which the Postmaster-General, A.P.Circle, Hyderabad by his letter dated 15.11.84 has sought to implement. We, therefore, order the respondents to include the applicant in this O.A.also for the same benefits. This order shall be implemented within four months of receipt of this judgment. There is no order as to costs.

PS
13/2/91
 (J.Narasimha Murthy)
 Member(Judl).

R. Balasubramanian
 (R.Balasubramanian)
 Member(Admn).

Dated 26th February 91

for *[Signature]*
 per *[Signature]*