

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL NO.3616 OF 2005

UNION OF INDIA AND OTHERS ...Appellant(s)

VERSUS

Y. VENKATACHALAM AND ANOTHER ...Respondent(s)

O R D E R

Respondent No.1, who retired as a Judge of the High Court of Madras, was appointed as President of the State Consumer Disputes Redressal Commission, Pondicherry (for short, 'the State Commission') vide Notification dated 15.10.2001 issued under Section 16(1)(a) of the Consumer Protection Act, 1986 for a period of four years on part-time basis.

In the audit conducted by the Accounts General (Audit) Tamil Nadu and Pondicherry in April, 2002, some adverse observations came to be made in the matter of drawl of dearness allowance and bills of telephone by the State Commission and District Forum, Pondicherry. In the backdrop of the audit

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report, Director of Civil Supplies vide his letter dated 9.8.2002 informed respondent No.1 that he will not be entitled to draw certain allowances. Respondent No.1 challenged that communication in Writ Petition No.36094 of 2002. He filed another writ petition being Writ Petition No.36144 of 2002 for grant of a declaration that he is entitled to hold the post of President on full time basis for a period of 5 years or till the completion of 67 years of age, whichever is earlier.

During the pendency of the above mentioned writ petitions, the Government of Pondicherry issued Notification dated 21.8.2003 whereby tenure of respondent No.1 was terminated well

before the expiry of four years period specified in Notification dated 15.10.2001. Respondent No.1 challenged the same in Writ Petition No.24940 of 2003 and prayed as under:

"In the premises aforesaid it is prayed that this Hon'ble Court may be pleased to issue appropriate writs, orders or directions more particularly a writ of certiorarified mandamus calling for the records of the second respondent in proceedings No.2171/DCS & CA/CAD/2003 dated 21-8-2003 and quash the said order and consequently direct the respondents to restore the Petitioner as President of the State Consumer Disputes Redressal Commission, Pondicherry with all attendant benefits, pass such other order as deemed fit in the circumstances of the case, award costs and thus render justice."

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By the impugned order, the Division Bench of the High Court allowed the last mentioned writ petition and declared that respondent No.1 will be entitled to all his salary, allowances, monetary value of perquisites till attaining the age of 67 years or completion of 5 years from the date of his appointment, whichever is earlier. The operative portion of the order passed by the High Court reads as under:

"On the facts of the case, we quash the impugned order dated 21.8.2003. The petitioner will be entitled to all his salary, allowances and monetary value of perquisites from this date of the impugned order till he attained the age of 67 years or completed the term of 5 years from the date of his appointment, whichever is earlier. This entire amount of money must be paid to him with interest at 10% per annum within two months from the date of receipt of a copy of this order by the authority concerned. The writ petition is allowed, but without any order as to costs."

Shri R. Venkataramani, learned senior counsel appearing for the appellants fairly stated that he is not in a position to support or justify Notification dated 21.08.2003, which was subject matter of challenge in Writ Petition No.24940 of 2003, but argued that the direction given by the Division Bench of the High Court for grant of salary, allowances and monetary value of the perquisites to respondent No.1 for a period of 5 years or

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till attaining the age of 67 years is liable to be set aside

because no such prayer was made in the writ petition.

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counsel pointed out that in the other two writ petitions, respondent No.1 has prayed for issue of a direction to the concerned authorities to restore the amenities and perks available to him and also continue him on the post of

President of the State Commission till attaining the age of 67 years or for a period of 5 years, whichever is earlier and submitted that the Division Bench committed serious error by granting relief to respondent No.1 ignoring that Writ Petition Nos.36094 of 2002 and 36144 of 2002 are yet to be decided.

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R. Venkataramani then submitted that as per Notification dated 15.10.2001, tenure of respondent No.1 was four years and that too on part time basis and the Division Bench committed serious error by virtually altering the terms and conditions of appointment of respondent No.1.

Shri V. Kanagaraj, learned senior counsel supported the impugned order and argued that in view of the amendment made by Act No.62 of 2002, respondent No.1 is entitled to continue as President of the State Commission up to the age of 67 years or till the completion of 5 years, whichever is earlier.

Learne
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senior counsel further argued that notwithstanding the terms and conditions enshrined in Notification dated 15.10.2001, the appellants are duty bound to treat respondent No.1 as full time President of the State Commission because Section 16(1) does not contemplate appointment of part-time Chairman.

We have considered the respective submissions. In our view, the Division Bench of the High Court committed serious error by declaring that respondent No.1 is entitled to all the benefits of the post of President of the State Commission as if he had been appointed for a period of 5 years ignoring that the

only prayer made in Writ Petition No.24940 of 2003 was for quashing Notification dated 21.8.2003 by which tenure of respondent No.1 was abruptly curtailed and two writ petitions, in which respondent No.1 had prayed for grant of allowances and perquisites and for being allowed to continue on the post of President till the age of 67 years or for a period of 5 years, whichever is earlier were pending adjudication. We are also

inclined to agree with learned senior counsel appearing for the appellants that the impugned order of the Division Bench of the High Court had the effect of amending the terms and conditions incorporated in Notification dated 15.10.2001 vide which

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respondent No.1 was appointed as President of the State Commission and this could not have been done without pronouncing upon the legality of that notification.

In the result, the appeal is allowed and the impugned order is set aside. The High Court shall now hear the parties and decide all the writ petitions filed by respondent No.1 by one order without being influenced by the observations contained in the impugned order or the one passed by this Court.

Keeping in view the age of respondent No.1, we request the High Court to make an endeavour to dispose of the writ petitions within a period of six months from the date of receipt/production of copy of this order. The parties are left to bear their own cost.

.....J.
(G.S. SINGHVI)

.....J.
(C.K. PRASAD)

NEW DELHI,

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May 19, 2010.

ITEM NO.101

COURT NO.2

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(s). 3616 OF 2005

U.O.I. & ORS.

Appellant (s)

VERSUS

Y. VENKATACHALAM & ANR.

Respondent(s)

(With office report)

Date: 19/05/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE C.K. PRASAD
(Vacation Bench)

For Appellant(s) Mr. R. Venkataramani, Sr.Adv.
 Mr. G.N. Reddy, Adv.
 Mr. Ravi Shankar, Adv.
 Mr. V.G. Pragasam,A.O.R.
 Mr. V. Pattabhi Ram, Adv.

For Respondent(s) Mr. V. Kanagaraj, Sr.Adv.
 Mr. G.V.R. Choudary, Adv.
 Mr. K. Shivraj Choudhuri,A.O.R.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed and the impugned order is set
aside in terms of signed order. The High Court shall now hear
the parties and decide all the writ petitions filed by

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observations contained in the impugned order or the one passed
by this Court.

Keeping in view the age of respondent No.1, we
request the High Court to make an endeavour to dispose of the
writ petitions within a period of six months from the date of
receipt/production of copy of this order. The parties are left
to bear their own cost.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed Order is placed on the file)