

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6116 OF 2014
(@ Special Leave Petition (C) No. 22870/2007)

ALL PENSIONERS' FEDERATION
CHERANMAHADEVI .. APPELLANT

VERSUS

STATE OF TAMIL NADU .. RESPONDENT

WITH

CIVIL APPEAL NO. 6302 OF 2014
(@ Special Leave Petition (C) No. 14631/2009)

O R D E R

Leave granted.

Heard Dr. A. Francis Julian, learned senior counsel
for the appellant and Mr. Rakesh Sharma, learned counsel
for the respondent-State.

The appellant preferred OA No. 6705/1997 before the
Tamil Nadu Administrative Tribunal for issuance of
direction to the State Government to extend the benefit of
G.O.Ms. No. 461, Finance (Pension) Department, dated
31.07.1996 in respect of the persons who have retired prior

Signature Not Verified

to 01.07.1996. As the factual matrix would unveil, the

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Naveen Kumar
Date: 2014.07.12
13:07:47 IST

said O.A., by operation of law, stood transferred to High

Reason:

Court forming the subject matter of W.P. No. 36651 of 2005.

It was contended by the learned Single Judge that the

2

State Government had arbitrarily fixed the date as

01.07.1996 picking it from the hat and, therefore, it is

arbitrary and discriminatory and violative of Article 14 of

the Constitution.

The learned Single Judge considered the

stipulations in G.O.Ms. No. 461, Finance (Pension)

Department and taking note of the fact that the qualifying service for full pension has been reduced from 33 years to 30 years due to the reason that maximum age limit for entering into Government service has been raised to 28 years, which was originally 24 years and the age of retirement has been reduced to 58 years opined that even if a person who retired after completion of full service, would not get full pension. That was the fundamental reason for fixing the cut-off date and on that ground the learned Single Judge did not strike down the Government Notification as unconstitutional.

The appellant preferred W.A. No. 789 of 2007 and the Division Bench, placing reliance on the decision in State of Bihar and others Vs. Bihar Pensioners Samaj [2006(5) SCC 65] and certain other authorities, accepted the reasons ascribed by the learned Single Judge and eventually dismissed the writ appeal.

When this special leave petition was listed for admission on 10.12.2007, the following order was passed:

"Learned counsel appearing on behalf of the
3

petitioner has invited our attention to the decision of this Court reported in 2007(2) SCALE 360 titled The Principal Secretary to Government Finance and Planning Department versus A.P. Pensioners Samaj & Ors. wherein the matter has been referred to a larger Bench and in which the decision of D.S. Nakara versus Union of India 1982 (2) SCALE 1213 has also been referred to."

The said case has been disposed of vide order dated April 30, 2014 by a Three Judge Bench. The said order reads as follows:-

Aggrieved by the judgment of the Andhra Pradesh High Court dated 23.12.2003 in Writ Petition Nos.16719 and 18490 of 2003, the respondent-State preferred the instant appeals.

The subject matter of the dispute is an

order of the Government of State of Andhra Pradesh G.O.Ms.No.87 Finance and Planning (FW:Pen 1) Department dated 25.5.1998. By the said G.O., the Government directed that the pension of the employees of the State be determined on the basis of the last drawn pay. However, the G.O. restricted the application only to the employees who retired from service subsequent to the date of the G.O.

Aggrieved by the said limitation imposed by G.O., those employees who retired prior to the G.O. approached the A.P. Administrative Tribunal, Hyderabad vide O.A. No. 6030 of 1999 and O.A. No.329/2000. The said O.A. were allowed by order dated 3.1.2002 whereby the Tribunal directed that the benefit of above mentioned G.O. be given to the respondent herein, however, with a rider that those who retired prior to the date of G.O. would not be entitled for arrears of the pension calculated in terms of the G.O.

Aggrieved by the order, the State of Andhra Pradesh carried the matter to the High Court by way of writ petition unsuccessfully and hence these instant appeals.

4

We do not see any reason to interfere with the concurrent conclusion of the High Court as well as of the Tribunal. The appeals are accordingly dismissed."

Mr. Francis, learned senior counsel submitted that the fixing of the cut-off date by the State Government was inappropriate as a result of which some have been deprived of the benefit. On a perusal of the reasoning of the High Court, we find that they are sound, for the cut-off date has not been picked up from the hat. Though the learned senior counsel tried to impress upon us that there would be no financial constraints, we are unable to accept the said position.

While not accepting the said submissions, we are inclined to state the benefit that has been granted in The Principal Secretary to Government Finance and Planning Department versus A.P. Pensioners Samaj & Ors. by the three-Judge Bench shall be made available to all the members of the appellant-Federation within a period of eight weeks. It is submitted by the learned senior counsel for the appellant that some of the employees might have expired in the meantime. In that case, the benefits have

to be computed as per the aforesaid position and be paid to the legal representatives. The said exercise shall also be carried within a period of eight weeks.

We hope and trust the State shall not get into slumber and not do the needful within the time fixed and

5

seek extension.

In the result, the appeals are allowed in part. There shall be no order as to costs.

.....J.
(DIPAK MISRA)

.....J.
(V. GOPALA GOWDA)

NEW DELHI
JULY 08, 2014

6

ITEM NO.10 COURT NO.9 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

Petition(s) for Special Leave to Appeal (C) No(s). 22870/2007
(Arising out of impugned final judgment and order dated 18/06/2007
in WA No. 789/2007 passed by the High Court Of Madras)

ALL PENSIONERS' FEDERATION Petitioner(s)

VERSUS

STATE OF T.NADU Respondent(s)

(with appln. (s) for bringing on record the lrs. of deceased petitioner and prayer for interim relief and office report)

WITH SLP(C) No. 14631/2009 (With Office Report)

Date : 08/07/2014 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s) Dr. A. Francis Julian, Sr. Adv.
Mr. Danish Zubair Khan, Adv.
M/s Arputham Aruna & Co.

Mr. S. Aravindh, Adv.
Mr. A. Lakshmi Narayanan, Adv.
Mr. V. Ramasubramanian, Adv.

For Respondent(s) Mr. R. Rakesh Sharma, Adv.
Mr. B. Balaji, Adv. (Not present)

UPON hearing the counsel the Court made the following
O R D E R

Application for substitution is allowed.

Leave granted.

Appeals are allowed in part in terms of the signed
order.

(NAVEEN KUMAR)
COURT MASTER

(RENUKA SADANA)
COURT MASTER

(Signed order is placed on the file)