(2011) 12 KAR CK 0300

In the Karnataka High Court

Case No : Writ Petition No. 1484 of 2008 (S-R)

V.S. Narayanarao, S.V. Parthasarathy, T.G. Subba Rao Since deceased by LR''s (Smt. Shanthalakshmi Subba Rao and Others) and R. Krishnarao	APPELLANT
Vs	
Karnataka Power Transmission Corporation Limited	RESPONDENT

Date of Decision : 05-12-2011

Acts Referred:
Karnataka Civil Services (Revision of Pay) Rules, 1987 — Rule 8.2

Citation : (2011) 12 KAR CK 0300

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : Pramod N Kathavi, for the Appellant; B.C. Prabhakar, Advocate for M/s. Bhoopalam Law Associates, for the Respondent

Final Decision : Dismissed

Judgement

Anand Byrareddy

1. Heard the learned counsel for the petitioners and the counsel for the respondents.

2. The petitioners were erstwhile employees of the respondent - Corporation and they retired from service on attaining the age of superannuation between 3.4.1990 and 30.07.1992. Alter their retirement, their pensionary benefits were settled and pension was said to have been determined as per the Pension Regulations applicable. The pension that is so paid is revised from time to time as and when the State Government revised the pension for its pensioners and the Corporation has chosen to extend the same benefit to its employees. Accordingly, Dearness Allowance revision is also being effected in so far as the petitioner''s case is concerned as and when the State Government enhances the Dearness Allowance for its employees. In other words, the pattern adopted for the pensioners of the Corporation is on par with the pensioners of the State Government. This is being followed in terms of the settlement signed with the

recognized Trade Union and this is uniformity maintained for all the pensioners receiving Family pension from the Corporation. The petitioners had earlier preferred writ petitions in W.P.No. 26805-94/1995 along with other retired employees with a prayer seeking a direction to accord the same percentage of Dearness Allowance as was paid to the State Government employees from time to time as per the Government order dated 18.03.1987 and to continue to grant enhanced percentage of Dearness Allowance as and when the same was sanctioned. The said writ petitions were disposed of on 21.02.2000 with a direction to the Corporation to consider their representation requesting the authority to accord the same percentage of Dearness Allowance as was being made applicable to Government employees, from time to time, pursuant to which the respondent - Corporation issued an endorsement dated 21.08.2000 rejecting their prayer. It was clarified that the Corporation has been paying its employees / pensioners / Family pensioners, the same rates of pension as applicable to Government servants, from time to time, It was further clarified that the rate of Dearness Allowance as applicable from 1.7.1992 has been paid. Therefore, the Dearness Allowance rates applicable for basic pension of Rs. 2.811/- would be 57% and not 76% as claimed by the petitioners. Aggrieved by this, the petitioners filed writ petitions in W.P.Nos. 20841-20844/2001 seeking to challenge the above endorsement and seeking a direction to extend the benefit provided under Rule 8.2 of the Karnataka Civil Services (Revision of Pay) Rules, 1987 (hereinafter referred to as the ''Rules'' for brevity), seeking such benefit from the respective dates on which each of the petitioners had retired. Though those writ petitions were disposed of with a direction to consider the case of the petitioners as directed by this Court earlier, according to the respondents, the pensioners are getting revised pension and Dearness Allowance on par with the State Government pensioners. This parity has been maintained not only by the present Corporation but also its predecessor in interest. KEB. In this regard, the respondent has indicated in its Statement of objections that the parity in so far as the employees of the Corporation and pensioners are concerned, is maintained as regards the basic pay of the employees and the pension paid as follows:

Employees:

Basic Pay

Rate of DA per month

a) Upto Rs.3,500/-

76% of Basic pay

b) Between Rs.3,501/- and Rs.6,000/-

57% of Basic Pay subject to a minimum of Rs.2.660/- p.m.

c) Above Rs.6.000/-

49% of Basic Pay subject to a minimum of Rs. 3.420/- p.m.

Pensioners / Family Pensioners:

Basic Pay

Rate of DA per month

a) Upto Rs.1,750/-

76% of Pension

b) Between Rs. 1,7517- and Rs.3,000/-

57% of pension subject to a minimum of Rs. 1,330/- p.m.

c) Above Rs.3,000/-

49% of pension subject to a minimum of Rs. 1,710/- p.m.

This according to the learned counsel for the respondents would indicate that the same percentage of Dearness Allowance is paid to its employees as well as the pensioners. However, for the purpose of payment of Dearness Allowance to the employees, the Government has prescribed three slabs in the basic pay and for the purpose of payment of Dearness Allowance to pensioners, the Government has submitted three slabs in the pension and in accordance with the Rules of both the Government as well as the Corporation, the maximum pension admissible to an employee is 50% of the last drawn basic pay at the time of retirement. Therefore, the Government has stipulated 50% of the slab of Dearness Allowance to its employees. This is what has been sanctioned by the BOARD in the year 1992. In accordance with the three slabs that are mentioned above, the petitioners'' pension is below Rs. 3,000/- and therefore, the percentage of Dearness Allowance admissible to pension was 57% of the pension and not 76% as sought to be contended by the petitioners It is also stated that the petitioners were sanctioned pension equivalent to 50% of the basic pay last drawn by them at the time of their retirement and hence, it is impossible to treat them on par with the employees who continue to be in service and the claim of the petitioners would require the Memorandum of Understanding to be cast overboard and to consider the case of the petitioners, which is impermissible. It is in this background that the endorsement has been issued to the petitioners denying their claim. Hence, the only question that would arise for consideration is.

Whether the pensioners have a vested legal right to claim pension on par with in-service employees?

3. The learned counsel for the petitioners would canvass the following contentions:

The classification made by the respondents for the purpose of extending the Dearness Allowance based on the pension alone, has nothing to do with the percentage of Dearness Allowance to be extended and he is also entitled to be treated on par with the employees of the Board in the matter of extending the benefit of Dearness Allowance and be put in the same slab as has been done in the case of employees.

4. This contention cannot be accepted. As already pointed out, the State Government has created slabs in so far as its employees in service, and pensioners are concerned.; It is those slabs which are applied to the petitioners as well. Hence, the contention that the petitioners ought to be treated on par with employees who continue to be in service, is impermissible.

This is a subject matter of settlement and it is pursuant to that settlement and with reference to the Dearness Allowance permissible to pensioners of the State Government that the petitioners are extended the benefit, from time to time. The petitioners can have no grievance on this. The claim of the petitioners being granted, would place them on a different pedestal and enable them to claim the relief which they are not entitled to, in law. Accordingly, the petition stands dismissed.