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Union of India vs B.Kishore Kumar

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Court : Kerala

Decided On : Aug-30-2019

Judge : Honourable Mr.Justice a.M.Shaffique,Honourable Mrs. Justice Shircy V.

Appeal No. : RP/399/2018

Appellant : Union of India

Respondent : B.Kishore Kumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE & THE HONOURABLE MRS. JUSTICE SHIRCY V. FRIDAY, THE 30TH DAY OF AUGUST 2019 / 8TH BHADRA, 1941 RP.No.399 OF 2018 IN OP (CAT). 154/2017 AGAINST THE JUDGMENT IN OP (CAT) 154/2017(Z) OF HIGH COURT OF KERALA dated 14.7.2017 REVIEW PETITIONERS/PETITIONERS/RESPONDENTS:

1 UNION OF INDIA 2 UNDER SECRETARY GOVERNMENT OF INDIA 3 THE DIRECTOR, MINISTRY OF EARTH SCIENCES CENTRE FOR MARINE LIVING RESOURCES & ECOLOGY, KENDRIYA BHAVAN, 6TH FLOOR, BLOCK C, P.B.NO.5415, CSEZ (P.O), KAKKANAD,

KOCHI-682037. 4 THE DIRECTOR (ESTABLISHMENT) GOVERNMENT OF INDIA, MINISTRY OF EARTH SCIENCES,PRITHVI BHAVAN, IMD CAMPUS, OPP. INDIA HABITAT CENTRE, LODI ROAD, NEW DELHI-110003. BY ADVS. SRI.T.V.VINU, CGC

RESPONDENT/RESPONDENT/APPLICANT: B.KISHORE KUMAR RADIO TELEPHONE OPERATOR, CENTRE FOR MARINE RESOURCES AND ECOLOGY(CMLRE), MINISTRY OF EARTH SCIENCES, KAKKANAD,COCHIN 682037 R1 BY ADV. SRI.S.ARUN RAJ THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 30.08.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 30th day of August 2019 SHAFFIQUE, J The petitioners in O.P.(CAT).No.154/2017 has filed this review petition. The OP(CAT) was filed challenging an order passed by the Central Administrative Tribunal by which the following direction had been issued:

> 12. The respondent is directed to re- designate the post of Radio Telephone Operator as STA and give the applicant the pay scale of the post with effect from 01.01.2006 in compliance of GOI orders on isolated posts. Applicant on being placed in STA cadre will be absorbed on bottom seniority, and the arrears be restricted to three years immediately prior to the filing of O.A as held by the Apex Court in Union of Inida v. Tarsem Singh - (2008) 2 SCC L & S 765.

2. This Court by judgment dated 14.7.2017 upheld the view of

the Tribunal. The petitioners contended that though there was a direction to re-designate the post of Radio Telephone Operator as STA and to give the applicant the pay scale of the post with effect from 01.01.2006, the respondent obtained the qualification for the post of STA only from 15.10.2008 and therefore the judgment to that extent requires to be reviewed.

3. But it is relevant to note that, even in the operative portion

of the order, the Tribunal has specifically stated that the re-designation has to be done in compliance of Government of India orders on isolated posts, which apparently indicates that the duties and responsibilities should be the same. It is also brought to our notice that the recommendation has been made by the fifth and sixth Pay

Commission as well. There is no dispute about the fact that the respondent was working in the capacity of Radio Telephone Operator

and what was required is only re-designation and such a recommendation had been made much earlier, as early as in December, 2006. It was when there was substantial delay in giving re- designation that the respondent was forced to approach the Tribunal. That apart, the Tribunal has limited the arrears be restricted to three years immediately prior to the filing of O.A and therefore we do not think that there is any financial implication on the Government.

4. The learned Central Government Counsel submits that there might be occasion for the Modified Assured Career Progression Scheme when taking into account the re-designation effective from 01.01.2006.

5. But that by itself is not a reason for review the order, especially when such an issue was not raised before the Tribunal or

before this Court at any point of time and it is only at this point of filing review petition that such a contention had been urged. We don't think that any grounds have been made for review. The review petition is dismissed. A.M.SHAFFIQUE JUDGE SHIRCY V. True copy JUDGE kp P.A. To Judge.

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