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The Commissioner vs Usha Malayappan

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SooperKanoon Citation : sooperkanoon.com/1916391

Court : Kerala

Decided On : Oct-01-2019

Judge : Honourable Mr.Justice K.Vinod Chandran,Honourable Mr.Justice V.G.Arun

Appeal No. : OP (CAT)/3152/2012

Appellant : The Commissioner

Respondent : Usha Malayappan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY, THE 01ST DAY OF OCTOBER 2019 / 9TH ASWINA, 1941 OP (CAT).No.3152 OF 2012(Z) AGAINST THE ORDER/JUDGMENT IN OA 1099/2010 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH PETITIONER/S: 1 THE COMMISSIONER KENDRIYA VIDYALAYA SANGATHAN, NO.18, INSTITUTIONAL AREA, SHAHEED JEET SINGH MARG, NEW DELHI 110 016. 2 THE EDUCATION OFFICER KENDRIYA VIDYALAYA SANGATHAN, NO.18, INSTITUTIONAL AREA, SHAHEED JEET SINGH MARG, NEW DELHI 110 016. 3 THE

ASSISTANT COMMISSIONER KENDRIYA VIDYALAYA SANGATHAN, REGIONAL OFFICE, IIT CAMPUS, CHENNAI 600 036. BY ADV. SRI.V.V.ASOKAN (SR.) RESPONDENT/S:

1 USHA MALAYAPPAN W/O.SRI. MALAYAPPAN, POST GRADUATE TEACHER (ECONOMICS), KENDRIYA VIDYALAYA, KANJIKODE, RESIDING AT RAM NIVAS, RIVER ROAD, C.N PURAM P.O, PALAKKAD 678 005. 2 LEENA MUKUNDAN W/O.SRI.MUKUNDAN, TRAINED GRADUATE TECHER (SOCIAL STUDIES) KENDRIYA VIDYALAYA OTTAPPALAM, RESIDING AT AMALA VALLYAPADAM, C.N PURAM P.O, PALAKKAD 678 005. 3 THE SECRETARY TO THE GOVERNMENT OF INDIA MINISTRY OF HUMAN RESOURCES DEVELOPMENT, NEW DELHI 110 001. R1 BY ADV. SRI.T.C.GOVINDA SWAMY THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 01.10.2019, THE

COURT ON THE SAME DAY DELIVERED THE FOLLOWING: ::2::

JUDGMENT

Dated this the 1st day of October 2019

Vinod Chandran, J.

The issue agitated in the original petition is

only with respect to the interest

Graduate Teachers in the Kendriya Vidyalaya Sangathan. They were deputed to the Kendriya Vidyalaya Sangathan, Tehran; the 1st respondent from 24.05.2007 and the 2nd respondent, from 15.06.2007. They continued there till 30.06.2010. While they were in Tehran, there was a pay revision effected to all Central Government employees

with effect from 01.01.2006. With r

::3:: entire foreign allowances with interest @12%.

2. The contention of the original petitioner, the Kendriya Vidyalaya Sangathan before the Tribunal

was that there was financial crisis

respondents.

3. The Tribunal found that financial crisis

cannot prejudice the claim of the employees.

condition that they would not be entitled to the pay scales and foreign allowance which the others are entitled to, if the Unit at Tehran was not financially viable. ::4::

4. We see that the original petition does not

challenge the grant of pay scales o

that they had never sought for interest on the foreign

allowance as is evident from the prayers

do not think that grant of interest was irregular, but, however, we confine it to 6% on condition that the amounts due as per the pay scale revision and the foreign allowance, if not already paid, along with the interest due be disbursed to the respondents 1 and 2 within a period of two months from the date of receipt of certified copy of this judgment. If the said amounts are not paid, as directed, interest @8% as ordered by the Tribunal shall be paid by the Sangathan and the difference in such amount, i.e, 2% interest, shall be recovered from the officers who are responsible for ::5:: such default.

The original petition is disposed of. No order

as to costs. Sd/- K. VINOD CHANDRAN, JUDGE. Sd/- V.G. ARUN, JUDGE. Jma/01.10 ::6:: APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF OA 1099/10 ALONG WITHOUT ANNEXURES DATED 30/01/2011.

EXHIBIT P1 A TRUE COPY OF ORDER BEARING F. NO.20-5/2006- KVS(ESTT III) ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT, ALONG WITH ITS ANNEXURE DATED 10/10/2006. EXHIBIT P1 B TRUE COPY OF ORDER BEARING F. NO.20-5/2006- KVS(E III) ISSUED AS REGARDS THE 1ST APPLICANT IN THE ORIGINAL APPLICATION DATED EXHIBIT P1 C TRUE COPY OF ORDER BEARING F. NO.20-5/2006- KVS(E III) ISSUED AS REGARDS THE 2ND APPLICANT IN THE ORIGINAL APPLICATION DATED EXHIBIT P1 D TRUE COPY OF THE ORDER BEARING F.NO.39029/T/4/2008 KVS HQ(ESTT III) ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT AS REGARD THE 1ST APPLICATION IN THE ORIGINAL APPLICATION DATED 27/02/2009. EXHIBIT P1 E TRUE COPY OF THE ORDER BEARING F.NO.39029/T/4/2008 KVS HQ(ESTT III) ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT AS REGARD THE 2ND APPLICATION IN THE ORIGINAL APPLICATION DATED 27/02/2009.

EXHIBIT P1 F TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 01/06/2009. EXHIBIT P1 G TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 01/07/2009. EXHIBIT P1 H TRUE COPY OF THE REPRESENTATION SUBMITTED ::7:: RESPONDENT DATED 18/10/2009. EXHIBIT P1 I TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 18/01/2010. EXHIBIT P1 J TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 17/03/2010. EXHIBIT P1 K TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 12/04/2010. EXHIBIT P1 L TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 01/06/2009. EXHIBIT P1 M TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 01/07/2009. EXHIBIT P1 N TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 18/10/2009. EXHIBIT P1 O TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 18/01/2010. EXHIBIT P1 P TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 17/03/2010. EXHIBIT P1 Q TRUE COPY OF THE REPRESENTATION SUBMITTED RESPONDENT DATED 12/04/2010. ::8:: EXHIBIT P1 R TRUE COPY OF THE LETTER BEARING FNO.39029/TEHRAN/74/2010-KVSHQ (ESTT- III)/539 ISSUED BY THE 2ND

RESPONDENT DATED EXHIBIT P1 S TRUE COPY OF THE LETTER BEARING F.NO.11011/16/2009-KVSHQ(EST-III)/515 ISSUED BY THE 2ND RESPONDENT DATED EXHIBIT P1 T TRUE COPY OF THE OFFICE ORDER BEARING F.NO.11046(THE)2010-KVSHQ(EST-III)/680 ISSUED BY THE 2ND RESPONDENT DATED EXHIBIT P1 U TRUE COPY OF LAST PAY CERTIFICATE ISSUED BY

THE PRINCIPAL K.V. TEHRAN AS REGARDS THE 1ST APPLICANT IN THE ORIGINAL APPLICATION DATED 30/06/2010. EXHIBIT P2 TRUE COPY OF THE REPLY STATEMENT FILED IN OA NO.1099/2010 DATED 07/03/2011. EXHIBIT P3 OF THE ORDER OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM IN OA NO.1099/2010 DATED 09/01/2012.

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