

# SUPREME COURT OF INDIA

Government of T.N.

Vs.

M. Ananchu Asari

C.A.Nos.1444-1445 of 2004

(P.Venkatarama Reddi and P.P.Neolekar JJ.)

01.02.2005

## JUDGMENT

### **P.Venkatarama Reddi, J.**

1. In order to extend the benefit of pension to the Government servants absorbed in the State Road Transport Corporations, the crucial date for granting/calculating pensionary benefits was specified as 1.5.1975/15.9.1975. The entitlement to pensionary benefits arises if they had completed ten years of qualifying government service as on that day. The validity of fixation of cut-off date as 1.5.1975/ 15.9.1975 came up for consideration before the High Court of Madras. The High Court declared the fixation of the date aforementioned as illegal and arbitrary and directed the Government to fix the cut-off date afresh, while indicating that the date on which the options were finally called for i.e. 20.6.1982 would be an appropriate date for determining the eligibility for pension. On appeal to this Court, the Judgment of the High Court was substantially confirmed. This Court negatived the plea of the appellants that the process of absorption took place in the year 1975 itself. This Court, instead of remitting the matter again to the Government for fixing the appropriate cut-off date and to avoid further delay, directed that the cut-off date shall be fixed as 1.4.1982 in modification of what was prescribed in G.O. No. 1028 dated 23.9.1985 etc., and G.O. No. 250 dated 18.1.1996. This Court held thus:

"Hence, the fixation of cut-off date as 1.4.1982 would, in our view, be appropriate. Taking into account the aforementioned date for the purpose of assessing the requisite length of service, we direct the appellants to take steps to extend the pensionary benefits to the eligible employees. Having regard to the conduct of the respondents in seeking the remedy long after the options were exercised, we consider it just and proper to direct that the respondent-employees whoever have retired should get the arrears of pension only from 1.1.1988 which date is fixed with reference to the year of filing the first writ petition namely W.P. No. 7012 of 1988. The fixation of pension and payment of arrears should be done accordingly within a period of four months from today. The appellants are entitled to adjust the monetary benefits which the employees would not have received if they were to receive the pension."

2. Now the Government of Tamil Nadu has filed this review/clarification petition. The contention in the said petition is as follows:

"It is submitted that the respondent-employees whoever have retired should get the pension arrears only from 1.1.1988 by which this Hon'ble Court has passed an order that the cut-off date is 1.4.1982 and the pensionary benefit from 1.1.1988 for the retired employees. The petitioner most respectfully accepts the said judgment, but for the remaining employees whoever have retired on or after 1.1.1988 should be eligible for pension on the date of actual retirement on attaining the age of superannuation."

3. Certain contentions are raised on the merits, especially, in regard to the conclusion of this Court that the process of absorption did not take place in 1975. We are not inclined to rehear the arguments on merits. If the petitioners failed to furnish the necessary material even during the pendency of appeal in this Court, that is no ground to review the judgment. There is also nothing to be clarified insofar as the operative part of the judgment is concerned. It is not necessary for us to express any view on the question whether the Transport Corporation employees who were erstwhile Government servants retiring after 1.1.1988 would be eligible to get the pension in addition to the salary drawn by them in the Corporation, as per the Rules and G.Os. applicable to them. It is the contention of the learned counsel for the respondent-employees that the G.Os. issued by the Government themselves contemplated such payment and in fact those who were parties to the earlier writ petitions were given that benefit. This issue cannot legitimately form the subject matter of either review or clarification. Hence the Review Petitions are dismissed with the above observations. Time for implementation of judgment is extended by four months from today.

4. I.A. Nos. 3 and 4 for impleadment are unnecessary. The same are dismissed.