2026 INSC 352

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No..... OF 2026
(SLP (C) Nos.11592-11593 of 2023)

THE STATE OF KERALA **...APPELLANTS(S)**

VERSUS

M. VIJAYAKUMAR & ORS. **...RESPONDENT(S)**

WITH

CIVIL APPEAL No..... OF 2026
(SLP (C) No.18030 of 2023)

J U D G M E N T

MANOJ MISRA, J.

1. Leave granted.

2. These two appeals impugn a common judgment and order of the High Court of Kerala at Ernakulam[1] dated 22.11.2022 passed

[1] The High Court

in Writ Appeal Nos.131 and 202 of 2022 which arose from W.P. (C) No.12062 of 2021 and W.P. (C) No.6411 of 2021. As these appeals impugn a common judgment, they were heard together and are being decided by a common judgment.

ISSUE

3. The short question posited for our consideration in these appeals is: *If dearness allowance[2] and dearness relief[3] are to be added on salary and pension payable to serving employees and retired employees, respectively, whether there could be a higher rate for enhancement of DA than what it is for DR?*

FACTS

4. Retired employees of Kerala State Road Transport Corporation[4] filed a writ petition questioning the lower rate fixed for enhancement of DR on pension than what was fixed for enhancement of DA on salary. Their grievance was that the serving employees got enhancement of DA by 14 per cent whereas the pensioners' DR was enhanced by 11 per cent. Claiming that there was no rationale for different rates, and the same violated the

[2] DA
[3] DR
[4] KSRTC

mandate of Article 14[5] of the Constitution of India[6], writ petitions were filed before a Single Judge of the High Court.

5. The learned Single Judge, *vide* order dated 14.12.2021, dismissed the writ petitions holding that serving employees and pensioners do not constitute one class, and therefore, different rates of enhancement are permissible.

6. Aggrieved by the order of the learned Single Judge, intra court appeals were filed before a division bench of the High Court.

7. The Division Bench, after considering the submissions, formulated the following question for its consideration:

> "Whether, after having taken a decision to extend the benefits of the order of the State Government declaring the enhancement of DA/DR to its employees and pensioners, to the KSRTC and its employees and pensioners, the State Government/KSRTC could effect a classification between the employees and pensioners of KSRTC for the purposes of granting the DA/DR at differential rates?"

8. After considering several decisions of this Court, the High Court held as under:

> "15. The principles that can be gleaned from the aforesaid decision, when applied in the context of the cases before us, compel us to hold that the action of the State and the KSRTC in restricting

[5] **Article 14.** – The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
[6] Constitution

the benefit of enhancement of DR to the pensioners of KSRTC to 109 % with effect from March, 2021, while extending the benefit of enhanced DA to its employees @ 112 % with effect from March, 2021, is to be seen as discriminatory and violative of Article 14 of our Constitution. It cannot be disputed that a valid classification must be justified *vis-a-vis* the object that is sought to be achieved through the measure that is adopted by the Government. In the cases before us, the object of extending an enhanced rate of DA/DR was essentially to balance the effects of ongoing inflation so as to ensure that the inflation does not interfere with the enjoyment of life to which an employee /pensioner is accustomed. Through the payment of the allowances in question, the objective aforesaid was to be attained, both in respect of employees as well as the pensioners. A restriction of the enhanced benefit to employees alone to the exclusion of pensioners on the specious plea of reasonable classification, appears to us to be violative of the equality clause enshrined in our Constitution. As already noticed, while it was open to the State Government / KSRTC to take into account the possible financial burden that would be fastened on them through the grant of enhanced DA/DR, while deciding whether or not to grant the said benefit to the employees / pensioners of KSRTC, once they decided to extend the benefit to the said employees/ pensioners, there could not be discrimination between them in the course of implementation of the decision. It is trite that the question as to whether a classification is reasonable or not must necessarily be tested against the object sought to be achieved for which the classification is held. In the instant cases, and *vis-a-vis* the particular object that was sought to be achieved through the grant of enhanced DA/DR, we feel that a classification between employees and pensioners was not justified. Thus, we find ourselves unable to sustain the impugned judgment of the learned Single Judge. We set aside the same, and allow the Writ Appeals and the Writ Petitions, with consequential reliefs to the appellants herein."

9. Aggrieved by the decision of the Division Bench of the High Court, the State of Kerala and KSRTC have separately filed appeals before us.

10. We have heard Mr. Jaideep Gupta, learned senior counsel, for the State of Kerala; Mr. P.V. Dinesh, learned senior counsel, for KSRTC; and Mr. V. Chitambaresh, learned senior counsel, for the retired employees (respondents).

SUBMISSIONS ON BEHALF OF THE STATE

11. On behalf of the State, it was submitted that retired employees and serving employees constitute different classes. Therefore, different rates for DA /DR *qua* two separate classes do not violate the right to equality as enshrined in Article 14 of the Constitution. Besides, financial reasons alone can justify different rates for two separate classes.

SUBMISSIONS ON BEHALF OF KSRTC

12. Learned counsel representing KSRTC adopted the submissions made on behalf of the State of Kerala and added that KSRTC is facing a resource crunch, therefore, considering its financial health, a conscious decision was taken to provide dearness relief to the pensioners at a rate lesser than the one at

which dearness allowance is to be provided to the serving employees.

DECISIONS CITED ON BEHALF OF APPELLANT(S)

13. In support of their submissions, the learned counsel for the State and KSRTC have cited following decisions:

i. ***T.N. Electricity Board vs. R. Veerasamy & Ors***[7]. Therein the question that arose for consideration was "*whether the appellant Board acted illegally or contrary to law in introducing the pension scheme to the employees, who were hitherto not governed by such pension scheme, prospectively from 01.07.1986. That is, whether the employees who retired before 01.07.1986 after receiving all retiral benefits available to them as per the law existing on their dates of retirement, can compel the appellant/Board to extend the benefit of newly introduced pension scheme with retrospective effect*". Upholding the Board's decision, this court held that the employees who retired before 01.07.1986

[7] (1999) 3 SCC 414

cannot compel the appellant/Board to extend the benefit of the newly introduced pension scheme with retrospective effect. While holding so, this Court accepted the explanation of the Board that there were financial constraints in making the scheme applicable to all.

ii. ***State of Punjab and Ors. vs Amar Nath Goyal and Ors.***[8] Therein the Government took a decision that those who retired or died on or after 01.04.1995 were entitled to get retirement gratuity/ death gratuity on the basis of addition of certain portion of the dearness allowance to the basic pay. The employees who retired prior to 01.04.1995, being deprived of its benefits, laid a challenge to such deprivation. Negativing the challenge, this Court held that financial and economic implications are very relevant and germane for any policy decision touching the administration of the Government. Therefore, the decision of the Government, after assessing the financial implications thereof, to limit

[8] (2005) 6 SCC 754

the benefits only to employees who retired, or died, on or after 01.04.1995, was neither irrational nor arbitrary.

iii. ***State of Rajasthan and Anr. vs. Amrit Lal Gandhi and Ors.***[9] Therein the validity of the cut-off date from which the pension scheme was made applicable was under challenge. As per the decision of the Government, the scheme was made applicable with effect from 01.01.1990. The challenge laid to the said cut-off date was accepted by the High Court and a direction was issued to make it applicable from 01.01.1986 as the recommendations were forwarded in 1986. This Court set aside the order of the High Court holding that recommendations made in 1986 did not contain a specific date with effect from which the pension scheme was to be made applicable. Moreover, the recommendations were subject to approval. Additionally, the Court accepted the explanation of the State that the decision for the

[9] (1997) 2 SCC 342

cut-off date of 01.01.1990 was "wholly economic". Besides, it was observed that "*financial impact of making the regulations retrospective can be the sole consideration while fixing a cut-off date*."

iv. ***Chairman & MD, Kerala SRTC vs. K.O. Varghese and Ors.***[10] In this case, the issue was regarding the decision to defer release of the benefits of 5th Pay Commission to the pensioners of KSRTC. The Government of Kerala had authorized KSRTC to pay pension to its employees as per the Kerala Service Rules. Pursuant thereto, KSRTC took a decision to pay pension to all those employees who retired after 01.04.1984, subject to fulfilling certain conditions. When 5th Pay Commission recommendations were accepted by the State Government, due to precarious financial position of KSRTC, a decision was taken to implement only some of the recommendations with effect from 01.11.1986. Further, the implementation of the recommendations of 5th Pay Commission relating to

[10] (2007) 8 SCC 231

pension and allied matters was deferred. Some of the employees of KSRTC filed a writ petition in the High Court challenging non-implementation of the recommendations. Those writ petitions were disposed of with direction to the Government to take a policy decision on whether the benefits of 5th Pay Commission recommendations should be extended to the pensioners of KSRTC. Pursuant thereto, a decision was taken by the State Government deferring the implementation of the recommendations for better times. The matter ultimately came to this Court. This Court held that KSRTC is an autonomous corporation established under the Road Transport Corporations Act, 1950. It can regulate the service conditions of its employees by making appropriate regulations in that behalf. Until such regulations are framed, it is entitled to take note of its financial health in considering whether a particular recommendation for enhanced pay or pension in respect of government employees should be adopted by it, and

if it is to be adopted by it, from what point of time. Additionally, it was observed that financial condition of a corporation like KSRTC is a relevant factor. Consequently, this Court upheld the decision of KSRTC to defer the implementation of 5th Pay Commission recommendations.

v. ***Himachal Road Transport Corporation and Anr. vs. Himachal Road Transport Corporation Retired Employees Union[11].*** Therein, this Court held that employees who were governed by CPF scheme and retired prior to 05.06.1995 by availing benefit of the scheme and employees who were in service and continued after 05.06.1995 cannot be treated as a homogenous class. Besides, fixing the cut-off date is an executive function based on several factors like economic conditions, financial constraints, administrative and other circumstances. This Court also observed that it is always open for the employer to introduce new schemes and benefits, having regard to financial

[11] (2021) 4 SCC 502

health of the employer. It was further observed that whenever such new benefit is extended for the existing employees, retired employees cannot seek such benefit merely on the ground that they too were the former employees of the Corporation.

14. By relying on the aforesaid decisions, it was contended that serving and retired employees cannot be equated and financial decisions are not amenable to challenge, as the employer is the best judge of which scheme is to be brought and implemented, and to what extent.

SUBMISSIONS ON BEHALF OF THE RETIRED EMPLOYEES /RESPONDENTS

15. On behalf of the pensioners, it was submitted that this is not a case where eligibility to pension or dearness relief is in issue. The State Government has authorized KSRTC to give pensionary benefits to its employees. Pursuant thereto, KSRTC has taken a conscious decision to pay pension to its employees. Therefore, there is no doubt regarding eligibility to pension, and there is no dispute that DR, which is linked to inflation, is payable to pensioners. However, the issue is whether DR could be enhanced at a rate lower than at which DA is enhanced for the serving

employees. In that context, it is submitted that the object of DA as well as DR is to ensure that serving employees / pensioners do not suffer on account of inflation. But since inflation is common for both serving and non-serving/ retired employees, there is no rationale for differential rates. Hence, the High Court's decision does not warrant any interference.

16. In support of his submissions, the learned counsel for the petitioner relied on:

(i) Kallakkurichi Taluk Retired Officials Association, Tamil Nadu and Ors. vs. State of Tamil Nadu.[12] In this case, it was observed that the object of extending DA and Dearness Pay, which is equivalent to DR, to employees / retired employees is to balance the effects of ongoing inflation. Since the component of inflation similarly affects all employees and all pensioners irrespective of the date of their entry into service or retirement, it is not per se possible to accept different levels of dearness pay to remedy the malady of inflation.

[12] (2013) 2 SCC 772

(ii) Kerala High Court judgment in ***Writ Petition (C) No.13798/2012: M. Venugopalan Nair vs. The Chairman and Managing Director, KSRTC,*** dated 03.07.2013. Therein it was held as follows:

> "Learned Standing Counsel contended that the serving employees and retired employees are two different and distinct classes. Once KSRTC takes a decision to disburse such benefits to distinct classes on different dates, no discrimination can be attributed, is the contention. It is to be accepted that serving employees and pensioners fall within two distinct and different categories. But question to be considered is as to whether the decision for giving benefits on different dates among those categories is justified or not. When it comes to the question of sustainability or justification of such decision, the objective has to be looked into. Merely because they fall within two categories, there cannot have different yardsticks in the matter of payment of benefits. Once KSRTC takes a decision to implement the revision of D.A., the same should have been uniformly applied. Unless there is any nexus with any objective sought to be achieved, no justifiable reasoning can be there for the differentiation among the two categories, and in such situation, it will amount to discrimination. Therefore, I am of the view that there is justification in the claim made by the petitioner seeking declaration for uniform treatment."

(iii) Division bench decision of the Kerala High Court in ***W.A. No. 176/2014: The Managing Director of KSRTC vs. M. Venugopalan Nair,*** dated

09.02.2017. In this case, the High Court had observed:

> "Though serving employees and pensioners fall under two distinct and different categories, there cannot be different yardsticks in the matter of payment of benefits on revision of DA. Once the appellant corporation takes a decision to implement the revision of DA the same should have been uniformly applied. Unless there is any nexus with any objective sought to be achieved, no justifiable reasoning can be there for the differentiation among the two categories, and in such situation, it will amount to discrimination."

17. Relying on the above decisions, the learned counsel for the respondents submitted that as KSTRC had taken a decision to provide DR to meet inflationary pressure, there was no justification to have a different rate for increase of DR than what it is for DA, when the inflation index is common.

REJOINDER SUBMISSIONS

18. In his rejoinder submission, learned counsel for the State invited our attention to paragraph 37 of the judgment in ***Kallakkurichi Taluk*** *(supra),* wherein it was observed as follows: -

> "37. The issue in hand needs to be examined from another perspective as well. It must be clearly understood that no employee has a right

> to draw "dearness allowance" as "dearness pay" till such time as the State Government decides to treat "dearness allowance" as "dearness pay". And therefore, the State Government has the right to choose whether or not "dearness allowance" should be treated as "dearness pay". As such, it is open to the State Government not to treat any part of "dearness allowance" as "dearness pay". In case of financial constraints, this would be the most appropriate course to be adopted. Likewise, the State Government has the right to choose how much of "dearness allowance" should be treated as "dearness pay". As such, it is open to the State Government to treat a fraction, or even the whole of "dearness allowance" as "dearness pay". Based on Rule 30 of the Pension Rules, it is clear that the component of "dearness pay" would be added to emoluments of an employee for calculating pension. In a situation where the State Government has chosen, that a particular component of "dearness allowance" would be treated as "dearness pay", it cannot discriminate between one set of pensioners and another, while calculating the pension payable to them (for the reasons expressed in the preceding paragraphs). Of course, a valid classification may justify such an action. In this case, the State Government has not come out with any justification/basis for the classification whereby one set of pensioners has been distinguished from others for differential treatment."

19. We have considered the rival submissions and have perused the materials on record.

DISCUSSION

20. Before we dwell on the question framed above, it would be apposite to have a glimpse at the undisputed facts. There is no dispute *inter se* parties that the State of Kerala, *vide* G.O. (Rt)

No.98/2021/TRANS dt. 25.02.2021, to meet inflationary pressures had sanctioned a certain sum of money, by way of temporary relief, while enhancing DA to 112% (an increase of 14%) for KSRTC employees and DR to 109% (an increase of 11%) for pensioners, effective March 2021. Thus, what is clear is that DR is payable to pensioners of KSRTC and the same is to be increased from time to time. The issue is that why should DR be raised at 11% when DA has been raised at 14%, when both are linked to inflation index.

21. DA is paid to serving employees whereas DR is paid to pensioners. The object of both DA and DR is common, which is to enable the serving employees /pensioners meet the exigencies of inflation. As the object of both DR/ DA is common, which is to meet inflationary pressures, and the inflation index is common to both the serving and the non-serving/ retired employees, *qua* the measure, that is, the rate(s) of increase of DA/ DR, could serving and retired employees be differentiated, is the issue which we shall address.

22. Article 14 of the Constitution forbids class legislation but permits reasonable classification which must satisfy twin tests: (1) that the classification must be founded on an intelligible differentia

which distinguishes those that are grouped together from others, and (2) that differentia must have rational nexus with the object sought to be achieved by the Act – The differentia which is the basis of the classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between the two.[13] Legislative and executive action may accordingly be sustained if it satisfies the twin tests of reasonable classification and the rational principle correlated to the object sought to be achieved. The burden of proof lies on the State to affirmatively establish that these twin tests have been satisfied. The State must therefore not only establish the rational principle on which classification is founded but correlate it to the objects sought to be achieved[14]. Besides, equality is a dynamic concept with many aspects and dimensions, and it cannot be cribbed, cabined and confined within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is

[13] See: (1952) 1 SCC 1: 1952 SCC OnLine SC 1: State of West Bengal v. Anwar Ali Sarkar; (1954) 2 SCC 791: 1954 SCC OnLine SC 19: Bhudhan Choudhary & Others v. State of Bihar

[14] (1983) 1 SCC 305: D.S. Nakara & Others v. Union of India, paragraphs 15 and 16

implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14, and if it affects any matter relating to public employment, it is also violative of Article 16. Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles applicable alike to all similar situate and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality[15].

23. In *Ajay Hasia and others v. Khalid Mujib Sehravardi and others*[16], this Court observed that doctrine of classification is the judicial formula for determining whether the legislative or executive action in question is arbitrary and therefore constituting denial of equality. If the classification is not reasonable and does not satisfy the two conditions referred to above, the impugned legislative or executive action would plainly be arbitrary and the guarantee of equality under Article 14 would be breached. Wherever therefore there is arbitrariness in State action whether it be of the legislature or of the executive or of an authority under

[15] (1974) 4 SCC 3: E.P. Royappa v. State of Tamil Nadu and Another, paragraph 85.
[16] (1981) 1 SCC 722, paragraph 16

Article 12, Article 14 immediately springs into action and strikes down such State action.

24. In ***State of Punjab & Ors. v. Davinder Singh & Ors***[17], Dr. D.Y. Chandrachud, C.J. (as His Lordship then was), while explaining the contours of Article 14, wrote:

> "85. The Constitution permits valid classification if two conditions are fulfilled. *First*, there must be an intelligible differentia which distinguishes persons grouped together from others left out of the group. The phrase "intelligible differentia" means difference capable of being understood. The difference is capable of being understood when there is a yardstick to differentiate the class included and others excluded from the group. In the absence of the yardstick, the differentiation would be without a basis and hence, unreasonable. The basis of classification must be deducible from the provisions of the statute; surrounding circumstances or matters of common knowledge. In making the classification, the State is free to recognize degrees of harm. Though the classification need not be mathematical in precision, there must be some difference between the persons grouped and the persons left out, and the difference must be real and pertinent. The classification is unreasonable if there is little or no difference. Second, the differentia must have a rational relation to the object sought to be achieved by the law, that is, the basis of classification must have a nexus with the object of the classification".
>
> (Emphasis supplied)

[17] (2025) 1 SCC 1

25. Now, applying the twin-tests principle, we shall test the validity of the Government Order to the extent it provides a lower rate of increase for DR than what it provides for DA. The object and purpose of dearness allowance/dearness relief is to mitigate the hardship faced by salaried employees/pensioners on account of inflation. The Government Order in question increases the rate of DA by 14% and DR by 11% even though the increase is to serve a common object, which is to mitigate the hardship faced by the serving employees and pensioners on account of inflation. Indisputably, inflation hits both serving and retired employees with equal force, therefore, differentiating the two *qua* the rate of increase of DA and DR, in our view, has no rational nexus to the object sought to be achieved.

26. The issue here is not about entitlement to DR on pension. Therefore, in our view, the decisions cited by the learned counsel for the appellants are not applicable on the facts of the case on hand. Besides, once pension is admissible and, based on inflation, DR is admissible on it, announcing DR at a rate lower than at what DA is provided, when both are linked to inflation and serve a common object, would be nothing but discriminatory as well as

arbitrary. Therefore, in our view, the High Court was justified in holding the same to be discriminatory and violative of Article 14.

27. The decisions cited by the learned counsel for the State as well as KSRTC do not deal with a situation where there is no dispute as regards entitlement to the benefit in question. Here, the retired employees are not only entitled to pension but also dearness relief, which is revisable from time to time, based on inflation. Thus, the issue is not of entitlement to the benefit but of differential rates at which those benefits are provided, dependent on whether the recipient is a serving or a retired employee. In our view, when those benefits serve a common purpose and are linked to inflation, and inflationary pressures do not discriminate between a serving employee and a pensioner, fixing different rates of enhancement of dearness allowance and dearness relief have no rational nexus to the object sought to be achieved and is clearly discriminatory as well as arbitrary.

28. No doubt a financial crunch might be a guiding factor to defer disbursement of certain benefits or may justify separate dates for implementation of beneficial schemes. But once a decision is taken to provide certain allowances as also to increase them, based on inflation, fixing a higher rate of increase for the ones who are

serving than the ones who have retired, would be arbitrary and violative of Article 14 of the Constitution. The question posited above, is answered accordingly.

29. As a result, we do not find any merit in these appeals. The same are accordingly dismissed. Pending application (s), if any, shall stand disposed of. There is no order as to costs.

.....J.
(Manoj Misra)

.....J.
(Prasanna B. Varale)

New Delhi;
April 10, 2026