JUDGMENT

All these appeals having substantially similar factual and legal matrices, seek to lay a challenge to the learned Single Judge's orders whereby, subject writ petitions having been favoured, the following direction has been issued:

> "*In the result, the respondents are directed to re-fix the salary of the petitioners by granting them the additional annual increment, and consequentially, also refit and pay their pension along with the arrears of salary and pension accrued so far, within a period of three months from the date of receipt of a copy of this order. The Writ Petitions are accordingly* ***allowed***."

2. Learned Senior Panel Counsel appearing for the appellant-Management vehemently argues for the invalidation of the impugned judgment on the following lines:

(i) That the Apex Court decision in ***KPTCL vs. C.P.MUNDINAMANI (2023) SCC OnLine SC 401*** has the effect of doctrine of prospective overruling and therefore, no benefit could have been granted to the employees that have retired earlier.

(ii) The said decision of the Apex Court is a judgment in *personam* and therefore, binds only parties thereto, and not others. That being the position, it could not have been treated as a judgment in *rem* and therefore, no relief could have been granted to other employees in the writ petitions.

(iii) The writ petitions ought to have been dismissed because of delay & latches and acquiescence since they would defeat equity; this aspect have not been duly considered by the learned Single Judge.

(iv) The writ petitioners who were holding different posts/positions could not have maintained one single petition and this aspect of the matter has not been duly treated by the learned Single Judge.

3. Having heard the learned counsel for the appellants and having perused the appeal papers, we decline indulgence in these appeals for the following reasons:

(a) Shorn off thickness of the appeal papers, the matter lies in a narrow compass. The appellants herein who were the opposing parties in the writ petitions answer the description of '*other authorities*' employed in Article 12 of the Constitution in the light of ***R.D.SHETTY vs. INTERNATIONAL AIRPORT AUTHORITY OF INDIA, AIR 1979 SC 1628***. In other words, the 1st appellant-KPTCL being a cent per cent public sector undertaking of the Government of Karnataka, answers the definition of '*State'* under Article 12 and therefore, it cannot act as a private employer. Every Article 12-Entity has to conduct itself as a *model employer*, to say

the least. Such an employer in a Welfare State is expected to treat the pensioners with soft gloves since they are in the evening of life, having retired after putting in a long & spotless service during their productive years.

(b) The Apex Court in *C.P.Mundinamani, supra* disposed off appellants' C.A.No.2471 of 2023. Even according to their learned panel counsel, the said matter was dismissed '*directing the Appellant Corporation to grant one annual increment which the original Writ Petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently'.* This is what has been stated in so many words at para 5 of the Memorandum of Writ Appeals. There is nothing that indicates that grant of relief was confined to the employees who were parties to the said decision *eo nomine.* It has been long settled in the realm of Service Jurisprudence that when Constitutional Courts grants relief to an employee in his individual case, other employees need not rush to the court corridor once again to litigate. The employer which answers the description of '*State'* under Article 12 of the Constitution, on its own has to extend the same benefit to all other

similarly circumstanced employees. This is what an employment in a 'Welfare State' means. An argument to the contrary would render the word '*socialist'* enshrined in the Preamble to the Constitution, a meaningless rhetoric. This inarticulate premise has animated the impugned judgments.

(c) The vehement submission of learned panel counsel appearing for the appellants that the Apex Court in Civil Appeal Nos.5529-5530 of 2023 between ***B.C.NAGARAJ AND ANOTHER vs. STATE Of KARNATAKA AND OTHERS***, disposed off on 13.09.2023, has held that the relief granted to the litigants who were parties to the case would not facilitate filing of cases by other retired employees and therefore, the decision in Mundinamani supra could not have been made the basis of impugned judgments, does not impress us even in the least. At para 12 of B.C.Nagaraj decision, it is observed as under:

> "*We make it clear that this judgment will apply to all cases, pending before either the Administrative Tribunal or High Court, of similarly situated employees in which a similar relief is claimed. However, this judgment shall not be used to file new cases by* ***retired employees who have been denied the benefit and who have not challenged the action till date.*** *No case, which has been concluded, shall be reopened on the basis of this judgment."*

(emphasis is ours)

There is sufficient intrinsic material in the above observation that the cases that have been concluded should not be re-opened and not that similarly circumstanced employees should not be given the benefit of that judgment. Secondly, the above observations of the kind are conspicuously absent in the decision in Mundinamani *supra*. It hardly needs to be said that what has been stated in one judgment should not be read into the other when their facts are poles apart. If it was the intent of Apex Court in Mundinamani that the relief was to be confined only to the parties *eo nomine,* the paragraph of the kind as has been scripted in the Nagaraj case, would have been couched. However, that is not the case.

(d) The next submission invoking *doctrine of prospective overruling* has been rightly termed by the learned Single Judge as 'misconceived' and we too share the same opinion. It is a doctrine that obtains in the realm of constitutional jurisprudence, especially when a law or an instrument of law has been adjudged in a particular way and in the subsequent decision, a view in variance thereof is taken. The doctrine is a judicial invention to ensure that a subsequent decision would not cause prejudice to the citizens by

unsettling the settled positions that have been structured on the basis of earlier judicial view or position of law. This aspect has been discussed in ***I.C.GOLAKNATH vs. STATE OF PUNJAB AIR 1967 SC 1643*** relied upon by the learned panel counsel. There is absolutely no warrant for the invocation of said doctrine in the case at hands. No statute was challenged in Nagaraj case *supra*. The entire case was founded on a norm of Service Law and nothing beyond. *More is not necessary to specify and less is insufficient to leave it unsaid*.

(e) The next submission as to delay & latches and acquiescence, does not merit countenance. No third party rights are created for the invocation of ground of the kind. What was considered by the learned Single Judge is the cause of the pensioners in these costly days. Normally, writ remedies are to sought for without brooking delay, is true. However, that norm cannot operate as a Thumb Rule regardless of the vulnerability of litigating class of people such as pensioners, peasants and poors. Obviously, as a matter of policy, Makers of our Constitution have not prescribed any particular period of limitation for the enforcement of Fundamental Rights. An Article 12-Entity like the

appellant-Corporation cannot resist a legitimate claim of citizens on the ground of delay & latches, *per se.* It is not that the impugned judgments that award a small sum by way of increment would jolt the budgetary position of the corporation. We need not repeat that the appellant-corporation being a cent per cent Government of Karnataka undertaking, has to conduct itself as a model employer. Heavens will not fall down if it shells out a few pennies that are due to the writ petitioners who have served for long. The Constitution is meant for working out practical remedies to the grieving citizens. Courts cannot deny relief by quoting some jurisprudential theories.

(f) The last submission that the writ petitioners were holding different posts and therefore, they could not have been treated as one single class, for awarding the relief, is difficult to countenance. The grant of increment ordinarily does not depend the posts, the same being a matter of accrual on yearly basis in favour of all classes of employees in public service. One may be an officer and another may be a member of sub-staff; the rate of increment may vary but not its entitlement as such. No rule or ruling has been cited before us to demonstrate the contra, except making vociferous submissions. The off-shoot argument that a batch of pensioners

could not maintain one single writ petition, again falls foul of the procedural law. The Writ Proceedings Rules, 1977 provide for joint petitions; what is required is the payment of court fee by each of the petitioners in the group and that there should not be conflicting interests, amongst them *inter se*. Rule 7 of these Rules has the following text:

> *"7. PROCEDURE FOR FILING COMMON OR JOINT PETITIONS:-*
> *(1) Several persons having similar but separate and distinct interest in the subject matter of controversy involving common questions of law and facts may file a common petition. For the purpose of Court Fees, such a petition shall be treated as equivalent to the filing of such number of writ petitions as there are petitioners. The Court fee payable on such writ petition shall be the same as payable on the number of writ petitions, when filed separately. For all other purposes, such as issue of notice etc., it shall be treated as one writ petition. Such common writ petition shall be in Form III appended to these rules and shall be supported by the affidavit of any one of the petitioners as in Form II. For such common petition one Vakalat with one set of Court fee stamp shall be sufficient*
> *(2) Several persons having common or joint interest but not seeking any individual relief, interim or final, may file a single petition"*

The language of above Rule being as clear as gangetic waters, would abhor argument of the kind.

4. Before parting with this case, we need to mention about the practice of citing a bunch of decisions of the Apex Court or of the same High Court on the same proposition of law and this can be avoided to save the public time & energy with which the courts work. The reason for mentioning this is discussed below.

(a) Learned panel counsel appearing for the appellants has cited an avalanche of Apex Court decisions in support of very same propositions. However, most of them, barring a few, which we have adverted to above, were not much relevant to the adjudication of these appeals. Referring to each of them would have only avoidably lengthened this judgment and therefore, we did not refer to many of them. It is a matter of common knowledge that nowadays, numerous rulings of the same courts are cited at the Bar to drive home the very same proposition of law. If these rulings are of persuasive value, like those rendered by various other High Courts, there is justification for the same. However, citing a bunch of decisions of the Apex Court or of the same High Court that reiterate the very same view of law or opinion, can be avoided.

(b) Decisions of Apex Court are made binding under Article 141 of the Constitution of India which has the following text:

> "*The law declared by the Supreme Court shall be binding on all courts within the territory of India*.".

The Makers of our Constitution have consciously employed the expression "*The law declared*", and not "*The law repeatedly declared*". Therefore, duplicating the citations of the Apex Court or of the same High Court on a particular view of law is not desirable, when citing one single, more particularly the latest, would suffice. The precedential value of Apex Court decisions, it hardly needs to be stated, does not depend upon their plurality. The same applies to the decisions of the same High Court as well. '*One swallow does not a summer make*', said Aristotle in his book **"***The Nicomachean Ethics", 350 BC* (It is often ascribed to Shakespeare also)**.** What Aristotle said is a metaphorical beauty, and not a legal norm. Of course, when no opinion of the Apex Court avails, and decisions of several High Courts deal a particular aspect of the matter, citing all of them would be profitable. If several judges of the same High Court in their independent judgements hold a particular view of law, citing all of them is also understandable.

(c) Learned authors Prof. Nick Taylor and Prof. Andrew Francis in the "FOUNDATIONS OF LAW" at page-7 (University of Leeds, U.K.), have rightly exhorted as under:

> *"Numerous cases are published in law reports, legal databases and online. In R v Erskine (2009) the Court of Appeal said lawyers needed to select carefully the cases they referred to in court or the justice system would be 'suffocated'. Only cases which established the principle of law under consideration should be cited. Authorities that merely illustrated the principle, or restated it, should not be cited. The court was thereby seeking to ensure that the doctrine of precedent is not overwhelmed by the sheer number of published judgments."*

In the above circumstances, these appeals being devoid of merits, are liable to be rejected in *limine* and accordingly, they are.

The Registry shall send a copy of this judgement to each of the private respondents (writ petitioners) by Speed Post immediately.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

cbc