

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM

THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

W.A.No.183 of 2015

M.Anandaraaj

... Appellant/Petitioner

vs.

1. The Central Public Information Officer,
(RTI Act, 2005)
Regional Meteorological Centre,
IMD,
No.50, College Road,
Chennai-600 006

2. The Appellate Authority RTI Act, 2005
India Meteorological Department,
Lodi Road, New Delhi-110 003

... Respondents / Respondents

Writ Appeal filed under Clause 15 of the Letters Patent Act against the order dated 02.07.2014 made in W.P.No.3855 of 2013.

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent No.1, the Central Public Information Officer, Regional Meteorological Centre, India Meteorological Department No.50, College Road, Chennai-6 representing the India Meteorological Department to pay compensation, as per Sec.19(8)(b) of the RTI Act, 2005, in lieu of reinstatement the loss and other detriments suffered by him to equate the retrospective reinstatement benefits with 12% interest till the date of settlement and the subsequent pension and other benefits calculated from the date of the above settlement till his life time upto 100 years.

For Appellant : Mr.M.Anandaraaj

JUDGMENT

(Judgement of the Court was made by V.RAMASUBRAMANIAN,J.)

The writ appeal arises out of an order passed by the learned single Judge dismissing the writ petition filed by the appellant, seeking reinstatement, compensation and various other reliefs.

2.Heard Mr.M.Anandraj, the appellant appearing in person.

3.The appellant was originally appointed way back in the year 1959, in the Regional Meteorological Centre. He was promoted on 9.3.1964 as Senior Observer. He was also granted permission, on 14.6.1968, to pursue his studies in the evening College. However, he was transferred from Madras to Bangalore by an order dated 20.07.1968. The appellant protested against the order of transfer and went on leave.

4.Since the appellant continued to be on leave, the department initiated proceedings against him, which ultimately culminated in an order of penalty of removal from service with effect from 1.11.1969.

5.Challenging the order of penalty of removal from service, the appellant filed a writ petition in W.P.No.3994 of 1970. The said writ petition was dismissed by a learned Judge of this Court, way back on 23.11.1970. The said order was challenged in W.A.31 of 1972 and the same was dismissed, on 5.10.1972. However, he appears to have sent representations. But the penalty attained finality way back in 1972.

6.After about 36 years of his removal from service, when the Right to Information Act, 2005 came, the appellant started applying for information. The copies of the petitions given by him to various authorities way back in 1968 and 1969 were obtained by him and thereafter, he applied to the Central Information Commission. Before the Central Information Commission, the appellant prayed for certain more reliefs. The contention of the appellant was that the information obtained by him demonstrated that the order of transfer, which led to his removal from service, was passed mala fide and not on administrative reasons. Contending so, the appellant filed a writ petition in W.P.No.1747 of 2010. The writ petition was dismissed by a learned Judge by an order dated 2.2.2010, holding that the petitioner should go before the Central Administrative Tribunal.

7. Therefore, the appellant filed an application, in O.A.No.1220 of 2012, on the file of the Central Administrative Tribunal. The Tribunal rejected the application by an order dated 10.1.2012 both on the ground that the prayer for compensation, under the Right to Information Act, 2005, cannot be redressed in an application before the Tribunal and also on the ground that the order of dismissal had attained finality.

8. The appellant did not file a writ petition challenging the order of the Tribunal. On the contrary, he came back to this Court and filed a writ petition in W.P.No.3855 of 2013. The prayer made in the said writ petition is required to be extracted and hence, it is extracted as follows:

".....to issue a writ of mandamus or any other writ or order or direction in the nature of writ under Article 226 of the Constitution of India, and direct the respondent I, the Central Public Information Officer, Regional Meteorological Centre, India Meteorological Department, No.50, College Road, Chennai-06 representing India Meteorological Department to pay compensation as per Sec.19(8)(b) of the RTI Act, 2005, in lieu of reinstatement, the loss and other detriments suffered by me to equate the retrospective reinstatement benefits with 12% interest till the date of settlement and the subsequent pension and other benefits calculated from the date of the above settlement till my life time upto 100 years."

9. The writ petition was dismissed by a learned Judge by order dated 2.7.2014. Aggrieved by the said order, the appellant is before us.

10. As we have pointed out earlier in the narration of facts, the order of removal from service was passed way back in 1969, pursuant to disciplinary proceedings. The challenge to the penalty of dismissal failed both before the learned single Judge, in W.P.No.3994 of 1970, by order dated 23.11.1970 and before a Division Bench in W.A.No.31 of 1972, by order dated 5.10.1972. Therefore, the appellant cannot today seek the reliefs that he would be entitled to, only if the order of removal from service is set at naught. The moment the order of removal from service has attained finality, the question of reopening the same for payment of compensation on the basis that the order of removal from service was wholly illegal, cannot be entertained.

11. Moreover, the main grievance of the appellant today is that the order of transfer was demonstrated, from the information obtained by him under the Right to Information Act, to be not motivated by administrative reasons, but mala fides. In other words, the appellant, who did not challenge the order of transfer on the ground of mala fides, but who challenged the removal from service and lost it, is now seeking to reopen the very same issue on the basis of the information obtained under the Right to Information Act, more than 36 years afterwards.

12. We have already extracted the prayer made by the appellant in the writ petition, which is on appeal before us. The appellant seeks compensation in terms of Section 19(8)(b) of the Right to Information Act, 2005. Section 19(8)(b) of the Act, enables the Central Information Commission or the Station Information Commission to order compensation for any loss or detriment suffered on account of non-furnishing of the information, or the failure of the subordinate authorities to furnish information or the furnishing of any wrong information. The object of Section 19(8)(b) of the Act is not to compensate an applicant for any alleged wrongful act done by them in the course of any departmental proceedings or in respect of a service matter. Therefore, the very prayer of the appellant in the writ petition is not maintainable.

13. As we have stated earlier, what the appellant seeks to do is only to bring back the challenge made 40 years ago to his order of removal from service, under the garb of the provisions of the Right to Information Act, 2005. Therefore, the learned Judge was right in dismissing his writ petition. We find no reason to entertain the writ appeal and accordingly, it is dismissed. No costs.

Sd/-
Asst. Registrar

/true copy/

सत्यमेव जयते
Sub Asst. Registrar.

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MSK

To

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India Meteorological Department,
Lodi Road, New Delhi-110 003

+1cc to Mr.M.Anandaraj, Advocate, S.R.No.9590

W.A.No.183 of 2015

RSI (CO)
CA(05/03/2015)



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