

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.08.2015

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Writ Petition No.18853 of 2015

M.P.No.1 of 2015

Bharat Sanchar Nigam Ltd.,
rep., by the Chief General Manager,
Chennai. Telephones Chennai-600 010.

... Appellant

vs.

1. S.Rajagopal
2. The Registrar,
Central Administrative Tribunal,
City Civil Court Campus,
High Court, Chennai 600 104.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records of the 2nd respondent-Tribunal, dated 18.03.2015, made in O.A.No.310/00020/2014, on the file of the 2nd respondent-Tribunal and quash the same.

For Appellants : Mr.S.Udayakumar

For 1st Respondent : Mr.Karthick Rajan
for M/s.Menon Karthick Mukundan

JUDGMENT

(Judgment of the Court was delivered by S.MANIKUMAR,J)

Challenge in this writ petition, is to the order made in O.A.No.310/00020/2014, dated 18.03.2015, on the file of the Registrar, Central Administrative Tribunal, Chennai, by which, the

petitioner is directed to place the case of the 1st respondent for consideration by the Screening Committee, to decide the eligibility of the 1st respondent, for 1st and 2nd time bound upgradation under EPP of BSNL, within a period of three months, from the date of receipt of passing of the order.

2. Short facts leading to the writ petition are as follows:

The 1st respondent, while working as Chief Accounts Officer, on Officiating Basis in Gujarat Circle, was prosecuted in ACB Case No.3/2006. Learned Special Judge and Presiding Officer of Fast Track Court, Vadodara, acquitted him, by a detailed judgment, dated 31.03.2008. In the mean while, BSNL Corporate Office, has issued Executive Promotion Policy (EPP) on 18.01.2007. As per the policy, all the Executive Officers, like the 1st respondent, were entitled to first time bound promotion, with effect from 01.10.2004 and second time bound promotion on 01.10.2009. Time bound promotion would be based on performance, during the period of service to the next IDA scale, upon completion of five years of service from the date of grant of 1st time bound promotion. Due to the pendency of the Criminal case, the Screening Committee did not recommend the case of the 1st respondent for the first time bound promotion. Though he was acquitted by the learned Special Judge and Presiding Officer of Fast Track Court, Vadodara, in view of the appeal, preferred by the State of Gujarat, he was not given promotion. In the mean while, his juniors were given first and second time bound promotion. Representations were given by the 1st respondent. However, he was promoted as Chief Accounts Officer, on adhoc basis, with effect from 28.03.2009 and also got his regular promotion with effect from 31.12.2009. As he was not given time bound promotion, in terms of the Executive Promotion Policy (EPP), an application, under Section 19 of the Administrative Tribunals Act, 1985, has been filed, seeking for a direction to the appellant to grant first time bound promotion to him, to the E-4 scale of Rs.29100-50500 (ie.) CAO Grade scale with effect from 01.10.2004 and second time bound promotion E-65 pay scale of Rs.32900-58000 (ie., DGM (Finance) Grade Scale with effect from 01.10.2009 with all consequential benefits, including arrears.

3. Opposing the said prayer, the writ petitioner, in their reply statement, submitted that first time bound promotion would be from 01.10.2004, subject to the officer having (i) prescribed Bench Mark of APAR for the last four years, ie., from 01.10.2000 to 30.09.2004 (ii) the officer should have touched the minimum of the next IDA Scale and (iii) Vigilance clearance for the prescribed period. The 1st respondent was under suspension from 15.07.2004 to 14.02.2005, which falls under the period of consideration for the 1st time bound promotion. Therefore, as per the rules, the case of the 1st respondent was not considered.

4. It was also stated in the reply statement that the Criminal Appeal was pending from the year 2008 and therefore, any further action, would be only after the outcome of the criminal appeal. BSNL

has stated that when the case of the respondent for the first time bound promotion, was referred to the Vigilance, as per BSNL HQ order, dated 20.09.2012 and hence, his case could not be put up to the Screening Committee.

5. On the above rival submissions and placing reliance on the decision of Himachal Pradesh High Court in Chandu Ram v. State of H.P., reported in 2009 SCC Online HP 1303, wherein, the Court has relied on the decision made in Surinder Kumar v. State of Himachal Pradesh reported in 1985 (3) SLR 254 and Balak Singh Thakur v. State of Madhya Pradesh reported in 2014 SCC Online MP 1036 and by observing that pendency of criminal appeal cannot be termed as extention of judicial proceedings, at Paragraphs 11 and 12 of the common order, made in O.A.No.310/00020/2014, dated 18.03.2015, held as follows:

"11. In the light of the settled legal position, it has to be concluded that the criminal proceedings against the applicant has ended. Therefore, we are of the view that the applicant is eligible for consideration of both 1st and 2nd time bound upgradations. It is also on record that though the respondents have taken the stand that they have to wait for the outcome of criminal appeal for issuing the financial upgradation under EPP, they have nevertheless granted the applicant adhoc promotion to the post of CAO on 28.03.2009 and they have also granted regular promotion to the post of CAO w.e.f. 31.12.2009. The respondents cannot take different stand in respect of time bound upgradations.

12. Since the judicial proceeding against the applicant having ended in acquittal on merit we direct the respondent to place the case of the applicant for consideration by the Screening Committee to decide the eligibility of the applicant of 1st and 2nd time bound upgradation under EPP of BSNL. The above exercise should be completed within a period of three months from the date of receipt of a copy of order in this case."

6. Though Mr.S.Udayakumar, learned Senior Counsel for the petitioner contended that the appeal is a continuation of the proceedings and vigilance clearance has not been given for the matter to be placed before the Screening Committee and therefore, the Central Administrative Tribunal has failed to consider the abovesaid aspect, this Court is not inclined to accept the said contentions.

7. Material on record discloses that Criminal proceedings in ACB Case No.3/2006 has ended in acquittal on 31.03.2008, by the learned Special Judge and Presiding Officer of Fast Track Court, Vadodara. In the mean while, the BSNL Corporate Office, has issued Executive Promotion Policy (EPP) on 18.01.2007. As per the policy, all the Executive Officers, like the 1st respondent, were entitled to the first time bound promotion, with effect from 01.10.2004 and second time bound promotion on 01.10.2009. Time bound promotion would

be based on performance, during the period of service to the next IDA scale, upon completion of five years of service from the date of grant of 1st time bound promotion.

8. Material on record further discloses that it is the case of the 1st respondent that he was served as officiating CAO from 13.11.2002 (vide CGMT Ahmedabad Memo No.Staff/13-37/off.CAO/F/47, dated 13.11.2002). As per CAO (Adhoc) Promotion, BSNL Corporate Office Order No.2-12/2008/SEA, BSNL, dated 27.03.2009, he was promoted to Senior AO to CAO and his name was included at Sl.No.4 in the promotion list, in the scale of Rs.14,500-350-18,700 (prerevised) (Rs.29100-54500 revised scale). According to him, he was a permanent employee (Senior AO) on regular basis from 03.03.1997, in BSNL and also permanently absorbed in BSNL, vide Presidential Order No.GJT DOT-Cell/Absorbition/BSNL/2003-04/58, dated 09.03.2004. He has completed 1st time bound four years, as on 01.10.2004 and due for his upgradation in the scale of Rs.14500-350-18700 and 2nd promotion was due on 01.10.2009.

9. It is the further case of the 1st respondent that due to the criminal case, his promotion was delayed. As he was acquitted on 31.03.2008, he was eligible for promotion. However, in the mean time, his juniors were upgraded IDA scale from 01.10.2004. After observing all departmental formalities by Promotion Committee of BSNL Corporate Office, New Delhi, he was promoted as CAO (Adhoc). In view of acquittal, he should have been considered for the first time bound promotion from 01.10.2004 onwards. He has also represented to the authorities that after acquittal, there was no vigilance or departmental case, pending against him. In his representation, the 1st respondent has also pointed out that his juniors have been given time bound promotion.

10. Objections of the writ petitioner, for denying the time bound promotion to the 1st respondent, before the Central Administrative Tribunal, on the grounds that the first time bound promotion would be from 01.10.2004, subject to the officer having (i) prescribed Bench Mark of APAR for the last four years, ie., from 01.10.2000 to 30.09.2004 (ii) the officer should have touched the minimum of the next IDA Scale and (iii) Vigilance clearance for the prescribed period, have been overruled. Before this Court, the same objections are reiterated, contending inter alia, that appeal is a continuation of proceedings.

11. Admittedly, Criminal proceedings in ACB Case No.3/2006 has ended up in acquittal on 31.03.2008, by the learned Special Judge and Presiding Officer of Fast Track Court, Vadodara. On the contention of the writ petitioner that filing of an appeal and pendency in the High Court, is a continuation of the proceedings, disentitling the 1st respondent to receive all consequential benefits, this Court deems it fit to consider the decisions relied on by both the parties.

12. In *Shri Surinder Kumar v. State of Himachal Pradesh* reported in 1985 (3) SLR 254, a case was registered against the petitioner therein, under Section 409 IPC. The learned Chief Judicial Magistrate, Solan, convicted the petitioner therein, and sentenced him to imprisonment for a term of one year and a fine of Rs.2,000/-. Conviction and sentence were set aside on appeals and the petitioner therein was acquitted. He made representations for revision of pay and allowances. While considering the effect of acquittal, the Hon'ble Division Bench of the Himachal Pradesh, held as follows:

"The preferment of acquittal appeals cannot however, be regarded as the continuance of the trial. The trials have concluded with judgment of acquittal. (See *State v. B.C.Dwivedi*, 1983 (2) XXIV GLR 1315). The initial presumption of innocence must, therefore, be regarded as having been doubly reinforced by orders of acquittal passed in favour of the petitioner. Under such circumstances, the continued operation of the order of suspension as from the date of acquittal cannot be regarded as reasonable, fair and just..... If the acquittal appears are allowed and the petitioner is convicted, there is nothing to prevent the competent authority from dealing with the petitioner in accordance with law. If, on the other hand, the acquittal appears fail and a departmental inquiry, if any, is ordered to be instituted on the same charges, it would not be fair and just reasonable to suspend the petitioner once again in view of the initial presumption of innocence having been reinforced twice over."

13. In *State of West Bengal v. Hari Ramalu* reported in 2000 (3) LLN 638, the respondent therein was placed under suspension on 09.09.1994. FIR was registered on 28.08.1994. The question posed before the Hon'ble Division Bench, was that in view of the pendency of the appeal, whether sub-rule (3) of rule of the All India Services (Discipline and Appeal) Rules, 1969, would still be applicable. The said rule states that a member of the service in respect of, or against, whom an investigation, inquiry or trial, relating to a criminal charge is pending may, at the discretion of the Government be placed under suspension until the termination of all proceedings relating to that charge if the charge is connected with his position as a member of the Service or is likely embarrass him in the discharge of his duties or involves moral turpitude. Defining the words "inquiry" and "investigation, under Sections 2(g) and 2(h) of the Code of Criminal Procedure and considering Rule 3 of abovesaid Rules, a Hon'ble Division Bench of Calcutta High Court, at Paragraph 10, held as follows:

"Continuation of the proceedings must relate to investigation, enquiry or trial and such investigation, enquiry or trial, if any, have come to an end with the judgment of acquittal. The same being continuing in the

instant case is misconceived, only on the ground that an appeal there against is pending. If respondent 1 is convicted by the appeal Court for commission of a criminal offence, sub-rule (4) of rule 3 of the said Rules would be attracted. Keeping in view the fact that different sub-rules of rule 3 operate in different fields, we are of the opinion that sub-rule (3) of rule 3 be held to be operative only in the case namely, when an investigation, enquiry or trial remains pending and not or when the employee person is acquitted. The situations obtaining under different sub-rule being absolutely different, in our opinion, sub-rule (3) of rule 3 must be given a restrictive interpretation."

14. In *Chandu Ram v. State of H.P.*, reported in 2009 SCC Online HP 1303, a corruption case was registered against the petitioner therein before the Special Judge (Forests), Shimla. He was acquitted by the Special Judge, vide judgment delivered on 17.06.2000. Thereafter, he retired on 31.10.2000. Thus, he was eligible to be considered for promotion as Deputy Ranger in the year 1992. Even after the acquittal, he was not given gratuity amount. It was the contention of the learned counsel appearing for the petitioner therein that after acquittal, he was entitled to get his gratuity, with interest, as per Rule 68 of the CCS (Pension) Rules. He has also pleaded that he was eligible to be promoted as Deputy Ranger, with effect from the date, his immediate juniors were promoted. Following the decision in *Shri Surinder Kumar v. State of Himachal Pradesh* reported in 1985 (3) SLR 254, the Calcutta High Court allowed the petition and directed the respondents therein to release the gratuity to the petitioner therein with interest, as per Rule 68 of the CCS (Pension) Rules. The respondents therein were further directed to open the sealed cover and in case, the name of the petitioner therein has been recommended by the Departmental Promotion Committee for promotion to the post of Deputy Ranger, necessary consequential orders, be passed.

15. In *State of Haryana v. Banwari Lal* reported in 2010 SCC Online P & H 183, a Hon'ble Division Bench of Punjab and Haryana High Court, on the very same issue, at Paragraphs 6 and 7, held as follows:

"6. Only contention which has been pressed by learned counsel for the appellants is that since proceedings are pending, there was justification for withholding gratuity and the State is now willing to conclude the proceedings within six months from today.

7. We are unable to accept the submission. The acquittal of the respondent was vide order, dated 27.02.2007. The State had enough opportunity to conclude departmental proceedings, instead of keeping the same in abeyance. The provision to withhold gratuity during pendency of proceedings implies that the concerned authorities take steps expeditiously to finalise the same.

If proceedings are kept pending for indefinite period, withholding of pensionary benefits cannot be justified. There is, thus, no ground to interfere with the view taken by the learned single Judge."

16. A Hon'ble Division Bench of Andhra Pradesh in Chief Commissioner of Land Administration, A.P., Hyderabad v. R.S.Ramakrishna Rao reported in 2010 (2) ALD 773 (DB), considered a case, as to whether, the petitioners therein can withhold the payment of retirement benefits, after acquittal, stating that the criminal appeals were pending. The Central Administrative Tribunal allowed the Original Application, directing the respondents therein to pay full pension, gratuity and other retiral benefits to the applicants therein holding that pendency of criminal appeal, against the order of acquittal, is of no consequence in view of Rules 9 and 52 of the A.P.Revised Pension Rules, 1980 (for short "the Pension Rules"). In that case, it was the contention of the State that against the orders of acquittal, criminal appeals have been filed before the Andhra Pradesh High Court and that the same were pending and under Rule 9 of the Pension Rules, the Government is empowered to withhold pension or gratuity, either in full or in part when any departmental or judicial proceedings, are pending against Government servant and that the petitioners therein were already sanctioned provisional pension and pendency of criminal appeals is a continuation of criminal proceedings and till the final orders are passed in the criminal appeals, the petitioners therein are not entitled for retirement benefits. After hearing both the parties, a Hon'ble Division Bench of Andhra Pradesh, at Paragraphs 12 to 22, after extracting the provisions, held as follows:

"12. Under Rule 9 of the Pension Rules, the Government has power to withhold or withdraw pension in full or in part and recover the same if the pensioner is found guilty in any departmental or judicial proceedings.

13. As per third proviso to Rule 9 of the Pension Rules, withholding of entire pension or gratuity or both may be imposed against the retired Government servant upon being found guilty or upon conviction in a Court of Law for proven grave offences of misappropriation, bribery, bigamy, corruption, moral turpitude, forgery, outraging the modesty of a woman and misconduct.

14. Even after retirement, if the pensioner is convicted of a serious crime or found guilty of gross misconduct, the Government is empowered to withhold or withdraw pension in full or in part permanently or for a specified period. Rules 8 and 9 of the Pension Rules deal with the power of the Government to withhold or withdraw pension after conviction either in the departmental proceedings or judicial proceedings.

15. Insofar as Rule 52 of the Pension Rules is concerned, the Government is empowered to withhold pension during pendency of the departmental or judicial

proceedings. But, however, the Government employee is entitled for provisional pension from the date of retirement till the final orders are passed either in the departmental or judicial proceedings.

16. Rule 52 of the Pension Rules reads as follows:-

Provisional pension where departmental or judicial proceeding may be pending:- (1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Audit Officer/head of Office shall pay the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government Servant, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be paid by the Audit Officer/Head of Office during the period commencing from the date of retirement to the date on which, upon the conclusion of departmental or Judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders:

Provided that where departmental proceedings have been instituted under Rule 9 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, for imposing any of the penalties specified in clauses (i) (ii) and (iv) of Rule 9 of the said rules, except in the cases falling under sub-rule (2) of Rule 22 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant."

17. A perusal of Rule 52 (1) (b) of the Pension Rules makes it clear that the Government employees, against whom the departmental or judicial proceedings are pending, are entitled for provisional pension from the date of their retirement till the final orders are passed either in the departmental or judicial proceedings.

18. As per Rule 52 (1) (c) of the Pension Rules, the Government is empowered to withhold gratuity till the final orders are passed either in the departmental or judicial proceedings. Once final orders are passed, there is no provision that empowers the Government to withhold retirement benefits.

19. The final orders, as indicated in Sub-rules (b) and (c) of Rule 52 (1) of the Pension Rules, are the orders to be passed by the Department upon conclusion of the departmental or judicial proceedings. Once the

departmental proceedings end in favour of delinquent employee, there is no question of agitating the orders of the disciplinary authority by the Department itself. Therefore, the final orders are required to be passed for the purpose of payment of retirement benefits.

20. Insofar as the criminal cases are concerned, the Department has got a right to file an appeal. But, it cannot be said that the judicial proceedings have not been concluded. Once the criminal court acquits the accused, it must amount to be the conclusion of the judicial proceedings in the first instance. Therefore, the appeals filed against the acquittal orders cannot be treated as continuation of criminal proceedings. The same view was taken by a Division Bench of Calcutta High Court in STATE OF WEST BENGAL's case (1 supra), referred to above. Para 9 of the said judgment reads as follows:-

"The submission of Mr.Chakraborty to the effect that pendency of the appeal against acquittal will amount to continuation of the proceedings cannot be accepted. Continuation of the proceedings must relate to investigation, enquiry or trial, and such investigation, enquiry or trial, if any, have come to an end with the judgment of acquittal. The same being continuing in the instant case, is misconceived, only on the ground that an appeal there against is pending. If the respondent No.1 is convicted by the Appeal Court for commission of a criminal offence, sub-rule (4) of Rule 3 of the said Rules would be attracted. Keeping in view the fact that different sub-rules of Rule 3 operative in different fields, we are of the opinion that sub-rule (3) of Rule 3 be held to be operative only in the case namely, when an investigation enquiry or trial remains pending and not or when the employee person is acquitted. The situations obtaining under different sub-rule being absolutely different, in our opinion, sub-rule (3) of Rule 3 must be given a restrictive interpretation."

21. If the appeal is not in continuation of original criminal proceedings, the order of acquittal is a final order within the ambit of Rule 52 of the Pension Rules, referred to above. After the orders of acquittal passed by the criminal court, as already stated above, there is no power for the Government to withhold pension or retirement benefits. The said benefits, therefore, are liable to be paid immediately after acquittal order.

22. If the appeal or revision proceedings are in continuation of the criminal proceedings, there will be no end for the litigation and the employees, who have been acquitted honourably, shall not get retirement benefits

till conclusion of all appeals, revisions, special leave petitions etc. Appeal against acquittal, not being continuation of original criminal proceedings, Rule 52 as above, will not be available to Government for withholding retirement benefits."

At Paragraph 24, the Hon'ble Division Bench has referred to a decision made in W.P.No.8000 of 2009 and batch, dated 17.11.2009, wherein, the Hon'ble Division Bench held that,

"when a Government employee suffers conviction and he is dismissed from service under Rule 25 of the State and Subordinate Service Rules, 1996, mere pendency of the criminal appeal and suspension of sentence does not enable such convicted Government employee to seek either reinstatement or payment of retirement benefits. The same analogy applies in the instant cases of acquittal as well and once the Government employee is acquitted of the criminal charge, merely because the State preferred an appeal, the Government cannot withhold retirement benefits of the Government employees, on account of pendency of the appeals against acquittal."

17. In R.C.Dubey v. M.P.State Electricity Board reported in 2013 SCC Online MP 1004, the petitioner therein was granted the benefit of First Higher Pay Scale, by order, dated 23.8.1990, in the post of Junior Engineer. He was entitled to Second Higher Pay Scale, which was not granted, because of the criminal prosecution launched against the petitioner, under the Prevention of Corruption Act, by Lokayukt, which led to suspension. On 12.12.2000, the petitioner therein was acquitted. Thereafter, he was reinstated on 3.1.2001. As his request for grant of higher pay scale, was not considered, he preferred a Writ Petition, which was disposed of, on 8.3.2006, with a direction to the respondent therein to consider his claim. Subsequently, the Department rejected his claim, stating that the prosecution has filed a Criminal appeal, against acquittal and therefore, recommendations were given in a sealed cover. Selection Committee also approved that the recommendations, in respect of the second higher scale, would be considered, only after the outcome of the said Criminal Appeal. Contention of the petitioner therein was that having been acquitted, criminal case cannot be said to be pending merely because an appeal is directed against the acquittal order. He also prayed that the respondents therein be directed to open the sealed cover and extend the benefit of second higher pay scale to him. After considering the definition of the expression "judicial proceeding" "includes any proceeding in the course of which evidence is or may be legally taken on oath." and after considering the decision made in Sheo Ram v. State (AIR 1964 Allahabad 290), the Madhya Pradesh High Court held as follows:

"The preferment of a criminal revision or an

appeal against an acquittal cannot be regarded as a continuance of the trial and cannot be treated to be pendency of judicial proceeding as the initial presumption of innocence gets re-enforced by the orders of acquittal. The contention, therefore, put forth by the respondents that the filing of revision against the judgment dated 12.12.2000 would tantamount to the pendency of judicial proceeding does not reason with the provisions as they stand under law. In the considered opinion of this Court, after acquittal, which lead to an affirmation of the innocence of the accused, an appeal or revision, as the case may be, being not a continuation of trial, will not amount to a pendency of judicial proceedings."

18. In Balak Singh Thakur v. State of Madhya Pradesh reported in 2014 SCC Online MP 1036, the claim of the petitioner therein for settlement of wages of suspension period, was rejected on the ground that against the order of acquittal recorded in a case, under the Prevention of Corruption Act, an appeal has been preferred in the High Court. Before the Madhya Pradesh High Court, it was contended that having been acquitted in a criminal case, pendency of criminal appeal, cannot be put against the claim of the petitioner therein for wages. The respondents therein contended that since an appeal was preferred against the acquittal, the petitioner therein was still under the cloud and hence, not entitled to finalisation of suspension period. Considering the said contentions, the Madhya Pradesh High Court held that objections of the respondents were not unjustified.

19. Reverting to the case on hand, perusal of the judgment in ACB Case No.3/2006, dated 31.03.2008, on the file of the Special Judge and Presiding Officer of Fast Track Court, Vadodara, shows that the 1st respondent was acquitted on merits and that the Court, after considering all the facts, held that there is no cogent and reliable evidence and that the complainant himself was not clear. The Court has further held that averments made by the prosecution cannot be accepted and resultantly, when there was no evidence, the 1st respondent herein is entitled to be acquitted.

20. While that be the clear finding recorded in the judgment, acquitting the respondent, under the premise of appeal, being filed and pending, against the order of acquittal, the 1st respondent cannot be deprived of the time bound IDS scale upgradation, endlessly. Disposal of the appeal may take a long time. The 1st respondent is stated to have retired from service. There is no certainty that the State would be satisfied, even if the appeal in the High Court fails. If the State chooses to prefer a further appeal to the Hon'ble Supreme Court, the Department may again contend that the appeal is pending before the Apex Court. Thus, if the arguments of the petitioner have to be accepted, then there is no finality to the

judgment of acquittal. In the light of the discussion and decisions considered, the further contention of the learned counsel that Vigilance has not given a clearance, cannot be countenanced.

21. Though by placing reliance on a decision of the Hon'ble Apex Court in Garikapti Veeraya v. N.Subbiah Choudhry reported in AIR 1957 SC 540, learned counsel for the petitioner contended that appeal is a continuation of the proceedings and that Vigilance has not given a clearance to the case of the 1st respondent to the Screening Committee, this Court is not inclined to accept the same.

22. Hence, the Writ Petition is dismissed. Consequently, the petitioner is directed to comply with the orders of the Central Administrative Tribunal, Madras Bench, within a period of two months, from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

The Registrar,
Central Administrative Tribunal,
City Civil Court Campus,
High Court, Chennai 600 004.

+1cc to M/s.Menon Karthik, mukundan &Neelakantan, Advocate Sr.45983

Writ Petition No.18853 of 2015

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srg 30.09.2015

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