

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 17.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE S.VIMALA

W.P.No.39764 of 2015

and

M.P.No.1 of 2015

1. Union of India rep. by
The Secretary, Railway Board,
Rail Bhavan, New Delhi - 110 001.

2. The Under Secretary (E) Special,
Railway Board,
Rail Bhavan, New Delhi - 110 001.

3. The General Manager,
Southern Railway,
Park Town,
Chennai - 600 003.

... Petitioners

Vs.

1. R.Murthy

2. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai - 600 104

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorari, calling for the records in O.A.No.214 of 2012 dated 26.03.2015 on the file of the Second Respondent and quash the same.

For Petitioners

: Mrs.V.Bhavani Subbaroyan

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J.)

The official respondent has filed this writ petition challenging the legality of the order dated 26.03.2015, in and by which the impugned order passed by the 2nd respondent was set aside and it was remanded back for fresh consideration.

2. The facts of the case would disclose that the 1st respondent while holding additional charge as Secretary to the Chief Administrative Officer during the year 2008, was visited with departmental proceedings in the form of a charge memo dated 20.08.2008, which ultimately culminated into a penalty of reduction to a lower stage by two stages in the same time scale for a period of three months without cumulative effect and the penalty was made effective from 14.03.2011 upto 13.06.2011. In the interregnum, orders have been passed providing selection grade to the 1995 IRSE batch recruits with effect from 01.01.2009 in terms of Railway Board's letter dated 24.09.2009. The grievance expressed by the 1st respondent was that though he belonged to the same batch, was left out on the ground that the disciplinary proceedings were pending against him and due to the pendency of the major penalty/charge sheet and as a consequence, the findings of the DPC were kept in a sealed cover.

3. The 1st respondent retired on attaining the age of superannuation on 30.06.2011. The 2nd respondent has addressed a communication to the 3rd respondent stating that the applicant will be considered for the placement in the selection grade in the next DPC in terms of the impugned order dated 14.07.2011.

4. The grievance expressed by the petitioner is that though Mr.Bhimi Reddy R.Kirshnan, was similarly placed like him, he was favourably considered, whereas, petitioner was discriminated and therefore made a challenge to the impugned proceedings by filing the Original Application.

5. The tribunal has taken into consideration the materials placed before it and the reply statement submitted by the official respondents/writ petitioners and by placing reliance upon the orders of the Railway Board in RBE 217/2002, which says that in the event of imposing penalty of postponement of increments, the fact of the same should be specifically stated with regard to the promotion or seniority status of the concerned official and further that since the disciplinary authority has not passed any order as to whether the penalty would have any effect on the promotion or seniority of the

petitioner, thought fit to remand the matter, vide final orders stated above and the official respondents aggrieved by the same had filed this writ petition.

6. Mrs.Bhavani Subbaroyan, learned counsel appearing for the petitioners would submit that admittedly the departmental action was initiated for imposition of major penalty and after completion of enquiry, a decision was taken to impose a minor penalty and the tribunal without taking into consideration the relevant official memorandums and factual aspects, has erroneously set aside the impugned order and remitted the matter for fresh consideration and hence prays for interference.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. The tribunal has taken into consideration the case of Mr.Bhimi Reddy R.Kirshnan, who was also similarly placed as that of the petitioner and found that though a minor penalty of withholding of increment for a period of six months without cumulative effect was imposed on the said official, he was accorded selection grade with effect from 01.01.2011 vide letter dated 24.10.2011 and further taking into consideration that the orders of the Railway Board in RBE 217 /2002, found that in the event of imposing penalty of postponing increment, the effect of it on the promotion or seniority of the concerned official, should have been indicated and since, the impugned order does not indicate the same, thought fit to remit the matter.

9. This Court on an independent application of mind and upon perusal of the materials placed before it in the form of typed set of documents, is of the view that there is no error apparent or infirmity in the reasons assigned by the Tribunal and therefore, interference is not warranted. DPC shall take every endeavour to conclude the proceedings as expeditiously as possible and not later than six months from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is dismissed, at the stage of admission itself, subject to above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

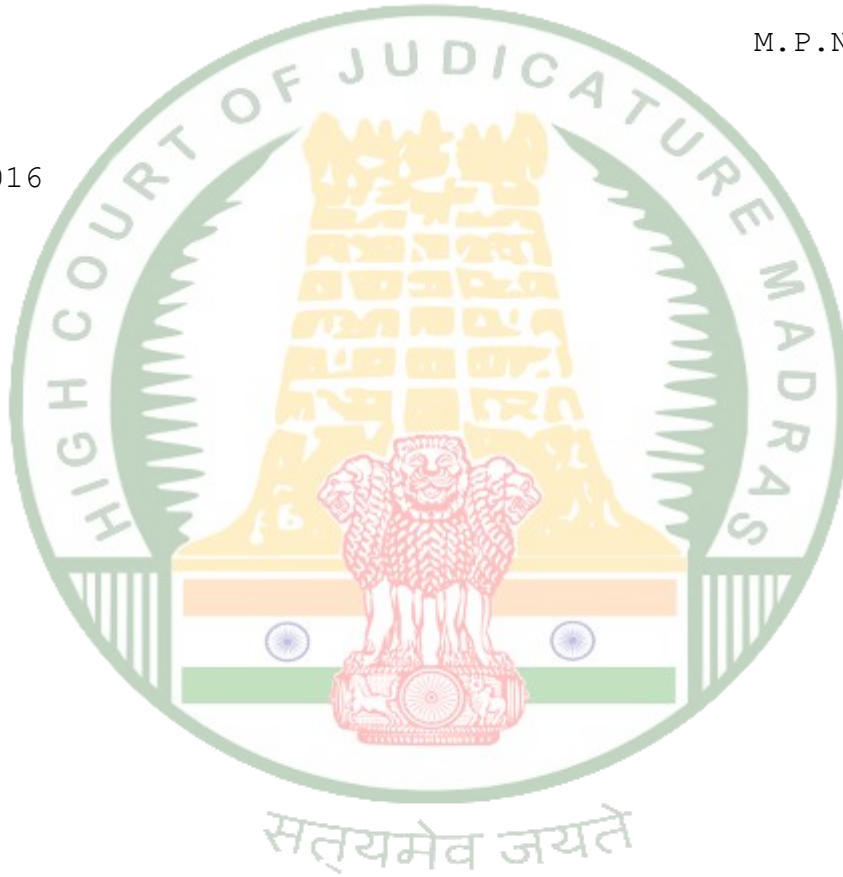
To

The Registrar
Central Government Administrative Tribunal,
Madras Bench, Chennai

+1 cc to M/s.Royan Law Associates Advocate sr.68061

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