

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.P.No.4460 of 2015
and
M.P.No.1 of 2015

P.Palaniyandi

... Petitioner

vs.

1. The Union of India,
rep.by its Secretary to Ministry
of Communications,
Department of Posts DAK Bhavan,
Parliament Street,
New Delhi.
2. The Post & Telegraphs Board,
Ministry of Communications,
New Delhi.
3. The Director of Postal Services,
Coimbatore.
4. The Senior Superintendent of Post Offices,
Salem East,
Salem-1

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records relating to the order of Central Administrative Tribunal passed in O.A.No.856 of 2002 dated 22.04.2003 and quash the same and directing the 4th respondent to consider the petitioner's representation dated 12.06.2014 for sanction of full pension by calculating the petitioner's past services from 10.12.1969 onwards up to 4.2.1984.

For Petitioner : Mr.M.Thamizhavel

ORDER

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

The petitioner has come up with the above writ petition challenging the order passed by the Central Administrative Tribunal in his application O.A.No.856 of 2002, rejecting his claim for reinstatement with monetary benefits.

2. Heard Mr.Thamizhavel, learned counsel for the petitioner.

3. The petitioner was originally appointed as a Clerk on 10.12.1969. A charge memo was issued way back in the year 1981. In the disciplinary proceedings, the petitioner was imposed with a penalty of dismissal from service, on 11.05.1983. His appeal was rejected. However, his revision to the Director General of Posts was treated as one to the Member (Administration) P & T Board. The said revisional authority confirmed the finding of guilt, but modified the penalty of dismissal from service into one of compulsory retirement.

4. The petitioner challenged the order of compulsory retirement by filing a memorial to the President. It was rejected on 14.6.1989. The order was challenged by the petitioner before the Tribunal in O.A.No.397 of 1990. The Tribunal dismissed the application by an order dated 12.07.1991. As against the said order, the petitioner did not take up the matter any further. Therefore, it attained finality.

5. While the departmental proceedings were going on, the department also initiated criminal proceedings. A charge-sheet was laid long after the dismissal of the petitioner, in C.C.No.148 of 1989. In the criminal proceedings, the petitioner was acquitted. After acquittal, the petitioner started re-agitating the same issue by filing an application in O.A.No.213 of 2002, to set aside the earlier order. The said application was dismissed by the Tribunal. Thereafter, the petitioner filed yet another application in O.A.No.856 of 2002, praying for reinstatement with all monetary benefits. This application came to be dismissed by the Tribunal by an order dated 22.4.2003. It is against the said order that the petitioner is before this Court.

6. The above narration of facts would go to show that the petitioner is re-litigating the same matter over and over. This is the third round of litigation. In the first round, which attained finality 20 years ago, by the order dated 12.07.1991, in O.A.No.397 of 1990, the punishment of compulsory retirement has already been approved. Therefore, the petitioner cannot re-agitate the same issue, as pointed out by the Supreme Court in K.K.Modi vs. K.N.Modi (1998(3) SCC 573). Even the order of the criminal Court was on the basis of benefit of doubt. That acquittal was also long after the departmental proceedings reached finality. Therefore, we find no merit in the writ petition and the same is dismissed. No costs. Connected miscellaneous petition is dismissed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

MSK

To

1. The Secretary to Ministry of Communications, Department of Posts DAK Bhavan, Parliament Street, New Delhi.
2. The Post & Telegraphs Board, Ministry of Communications, New Delhi.
3. The Director of Postal Services, Coimbatore.
4. The Senior Superintendent of Post Offices, Salem East, Salem-1

+1cc to Mr.M.Thamizhavel, Advocate, S.R.No.9714
+1cc to Mr.S.Narayanasamy, Advocate, S.R.No.9573

W.P.No.4460 of 2015

LRS (CO)
CA(06/03/2015)