

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.PAUL VASANTHAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

W.P.No.547 of 2015

V.Krishnaswamy

... Petitioner

Vs.

1. The Union of India,
rep. by Secretary,
Department of Posts,
DAK Bhavan,
New Delhi-110 001.
2. The Post-Master General,
Southern Region,
Madurai-625 002.
3. The Senior Superintendent of Post Offices,
Virudhunagar Division,
Virudhunagar-626 001.
4. The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai-600 104.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus calling for the records of the 4th respondent in connection with the impugned order passed in O.A.No.1445 of 2011 dated 22.8.2014 and quash the same and further direct the respondents to extend the petitioner with pensionary benefits along with retirement benefits by taking into consideration half of the service rendered by the petitioner as Extra Department Packer within a time limit.

For Petitioner : Mr.K.Venkatramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.P.Parivallal for R1 to R3

ORDER

(Order of the Court was made by N.PAUL VASANTHAKUMAR,J.)

Heard Mr.K.Venkatramani, learned Senior Counsel appearing for the petitioner and Mr.V.Parivallal, learned counsel appearing for the respondents 1 to 3.

2. This writ petition is filed challenging the order made in O.A.No.1445 of 2011, dated 22.8.2014, wherein application filed by the petitioner seeking to count 30 years as Extra Departmental Staff and 7 years as Departmental Staff for the purpose of sanction of pension, was rejected along with two other connected matters, namely O.A.Nos.1444 of 2011 and 1446 of 2011, by common order dated 22.8.2014.

3. It is the contention of the petitioner before the Central Administrative Tribunal and this Court that petitioner joined the service in the Postal Department as Extra Departmental Packer with effect from 28.2.1973 and he was promoted as Postman in the year 2005 based on the orders of the Central Administrative Tribunal in O.A.No.94 of 2004 with effect from 09.1.2003. The petitioner reached the age of superannuation on 30.1.2010. Though the petitioner had completed 37 years of service, namely 30 years as Extra Departmental Staff and 7 years as Departmental Staff, he was denied pension by stating that he was not put in 10 years of qualifying pensionable service, which is required under Rule 49(3) of Central Civil Service (Pension) Rules, 1972.

4. The grievance of the petitioner is that even though the Central Administrative Tribunal, Cuttack Bench has rendered judgment in O.A.No.614 of 2010 dated 8.7.2011 ordering to treat the Extra Department Staff, who served for several years, who was lacking some of years for pensionable service after he was brought into regular postal service, the Central Administrative Tribunal has failed to appreciate the said fact and applied the said judgment even though writ petition against the order made in O.A.No.614 of 2010 filed before the High Court, Orissa in W.P.(C) No.29574 of 2011 was dismissed and the same was upheld by the Hon'ble Supreme Court as the Special Leave Petition filed before the Hon'ble Supreme Court was dismissed.

5. The learned Senior Counsel appearing for the petitioner submitted that similar matter was also considered by the Central Administrative Tribunal, Madras Bench in O.A.No.48 of 2013 and by order dated 09.6.2014, the said Original Application was allowed infavour of the petitioner therein, which was also challenged before this Court in W.P.No.23652 of 2014 and the Division Bench of this Court, by order dated 27.10.2014 dismissed the writ petition and affirmed the order of the Central Administrative Tribunal and in this case, the Central Administrative Tribunal has taken a different view

and the same is liable to be set aside and the writ petition is bound to be allowed.

6. The learned counsel appearing for the respondents 1 to 3 fairly submitted that the matter in issue is covered by the order of the Division Bench of this Court in W.P.No.23652 of 2014, dated 27.10.2014, wherein the Division Bench of this Court has considered the order passed by the Central Administrative Tribunal, Cuttack Bench in O.A.No.614 of 2011, dated 8.7.2011, which was affirmed by the High Court, Orissa in W.P.(C) No.29574 of 2011, by order dated 02.7.2012 and re-affirmed by the dismissal of SLP (Civil) CC.No.5292 of 2013 dated 15.4.2013 by the Hon'ble Supreme Court and the writ petition may be disposed of in terms of the order passed in W.P.No.23652 of 2014, dated 27.10.2014.

7. Considering the order made in W.P.No.23652 of 2014, dated 27.10.2014, the writ petition is allowed with a direction to the respondents 1 to 3 to treat the petitioner has completed 10 years of qualifying service for the purpose of sanction of pension as on 30.1.2010. The petitioner is entitled to get eligible pension from 01.2.2010. The respondents 1 to 3 are directed to implement this order and pay arrears of pension from 01.2.2010, within a period of three months from the date of receipt of a copy of this order. No costs.

bbr

-s/d-
Assistant Registrar (CS-II)
Dt:27/1/2015

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
Department of Posts,
DAK Bhavan,
New Delhi-110 001.
2. The Post-Master General,
Southern Region,
Madurai-625 002.
3. The Senior Superintendent of Post Offices,
Virudhunagar Division,
Virudhunagar-626 001.

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

+ 1 cc to Mr.M.Muthappan Advocate SR 2466

+ 2 ccs to Mr.V.Parivallal, Advocat SR 2584

bvr(co)
prk3/2

W.P.No.547 of 2015



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