

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2015

CORAM

THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR. JUSTICE T.MATHIVANAN

W.P.Nos.6828 of 2015
and
M.P.No.1 of 2015

1. Union of India,
Rep.by the Director of Postal Services,
O/o.Postmaster General,
Central Region (TN),
Tiruchirappalli

2. The Superintendent of Post Offices,
Nagapattinam Division,
Nagapattinam-611 001

... Petitioners

vs.

1. B.Dhanalatchumi

2. The Registrar,
Central Administrative Tribunal,
City Civil Court Building,
Chennai-600 104

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the second respondent Tribunal dated 18.6.2014 made in O.A.No.609 of 2012 and to quash the same

For Petitioners : Mr.Venkataswamy Babu,
SPCGI

For Respondents : Mr.R.Malaichamy for R1

ORDER

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

The Union of India, represented by the Director of Postal Services, has come up with the above writ petition challenging the order of the Central Administrative Tribunal.

2.Heard Mr.K.Venkataswamy Babu, learned Central Government Standing Counsel appearing for the petitioners and Mr.R.Malaichamy, learned counsel appearing for the first respondent.

3.Claiming that she has been working as a Sweeper cum Water Carrier at Kollapuram Sub Office, for over 20 years from 03.05.1991, the first respondent filed an application in O.A.No.609 of 2012, on the file of the Central Administrative Tribunal, seeking regularisation of her services. The Tribunal rejected the claim for regularisation, but directed the Postal Department, to consider the case of the first respondent for recruitment to any future vacancy in the Multi Tasking Staff Cadre, if she was qualified for appointment. Taking exception to the said order, the Department of Post has come up with the above writ petition.

4. There is no dispute about the fact that the claim of the first respondent for regularization has been rejected by the Tribunal. But unfortunately, as seen from ground No.(c) raised by the writ petitioners, they have misunderstood the order of the Tribunal to be one for a regularization of the services of the first respondent. The order is very clear. The order of the Tribunal is not one for regularizing the services of the first respondent. This can be seen from one portion of the order of the Tribunal in paragraph No.11 and what is provided in paragraph No.12. A part of paragraph No.11 and the entirety of paragraph No.12 of the order of the Tribunal are extracted hereunder for easy appreciation:

"11.It is seen that the applicant was engaged on part time basis for work of sweeper work only for 24.38 minutes per day, according to the additional reply of the respondents, and further, she was not in indigent state as her husband and son were working abroad. This Court cannot direct creation of a post for the sake of the applicant. She cannot claim regularization as a matter of right as held by the Hon'ble Supreme Court in the case of Nand Kumar vs. State of Bihar & Ors. in C.A.No.2835 of 2014 with C.A.No.2836 to 2843 of 2014 decided on 25.02.2014

(para 9 above).

12. It is unnecessary at this juncture to go into the question whether the applicant was sponsored by the Employment Exchange or not. In the earlier years, engagement of part-time Sweepers on (Meagre) wages was not necessarily done through the Employment Exchange. It is not the case of the Respondents that the Applicant's initial engagement was irregular. Considering that she has been working continuously for more than 20 years, albeit on part-time basis, the Applicant deserves to be given some priority in any future recruitment to a post in MTS cadre. In the facts and circumstances of the case, the Respondents are directed to consider the appointment of the Applicant in any vacancy, existing or which may arise in future, in the MTS cadre with suitable relaxation in age and educational qualification, if required, provided that the Applicant is adequately literate and found fit to discharge the duties of post in MTS cadre."

Therefore, the writ petitioner has come up on a total misconception as though the Tribunal granted the relief of regularization.

5. One more grievance of the petitioner is that the first respondent is not qualified to be appointed to MTS cadre. But as seen from Paragraph No.12 of the order of the Tribunal, the Tribunal has issued the direction subject to her qualifications prescribed for MTS posts. Therefore, we do not see as to how the petitioner can be taken to be aggrieved by the order of the Tribunal. Hence, the writ petition is dismissed. No costs. Connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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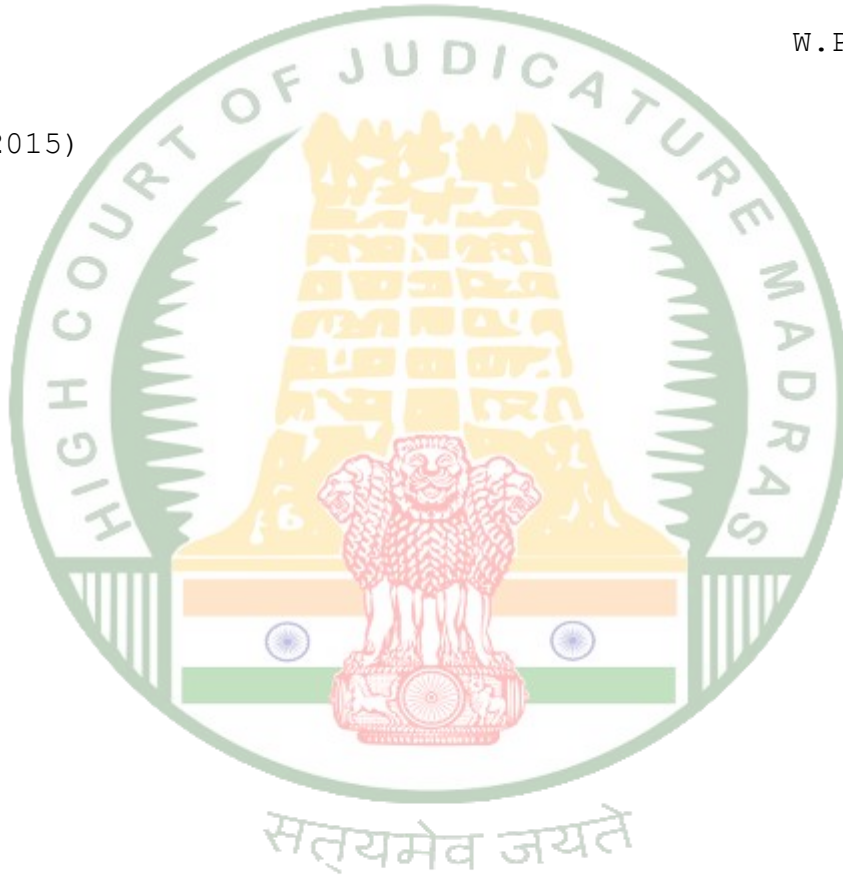
To

The Registrar,
Central Administrative Tribunal,
City Civil Court Building,
Chennai-600 104

+1cc to Mr.Venkataswamy Babu, Advocate, S.R.No.34077
+1cc to Mr.R.Malaichamy, Advocate, S.R.No.34115

W.P.No.6828 of 2015

KM(CO)
CA(21/07/2015)



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