

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2016

CORAM :

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR. JUSTICE P.KALAIYARASAN

W.P.No.10039 of 2011

The Superintendent of Post Offices
Srirangam Division
Trichy 620 006

... Petitioner

Vs.

1. S.Rengaraju
2. A.T.Krishnasamy
3. The Registrar
Central Administrative Tribunal
Madras Bench
Chennai

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, calling for the records relating to the order dated 06/07/2010 made in O.A.No.944 of 2009 on the file of the Registrar, Central Administrative Tribunal, Madras Bench, Chennai, the 3rd respondent tribunal herein and quash the same.

For Petitioner : Mr.Venkataswamy Babu,
CGSC

For Respondents : No appearance for R1 & R2
R3 - Tribunal

ORDER

(Order of the Court was made by A.SELVAM, J.)

Challenge in this Writ Petition is to the order dated 6th July 2010 passed in Original Application No.944 of 2009 by the Central Administrative Tribunal, Madras Bench.

2. The first respondent herein, as petitioner, has filed Original Application No.944 of 2009 on the file of the Central Administrative Tribunal, praying to set aside the order dated 9.9.2009 passed by the first respondent therein.

3. It is averred in the petition that the applicant is an officiating Postmaster at Mettupalayam Sub Office. He has been initially appointed as GDS Packer on 6.9.1973 and he is eligible for considering selection and appointment by promotion to the cadre of Postman under 25% seniority quota available to the GDS in the Postal Department. During the year 2008, an unreserved vacancy has arisen in the category of Postman under 25% seniority quota. The applicant belongs to the Scheduled Caste and as such he is entitled to get age relaxation. The second respondent has been erroneously selected to the post in question by way of passing the impugned order dated 9.9.2009 and in order to set aside the same, present petition has been filed.

4. The Central Administrative Tribunal, after considering the contentions put forth on either side, has allowed the petition and thereby directed the first respondent therein to post the petitioner as Postman. Against the order passed by the Central Administrative Tribunal, Madras Bench, the present Writ Petition has been filed under Article 226 of the Constitution of India for the relief sought therein.

5. Even though the respondents 1 and 2 have been served with notice, appearance has not been made. Under such circumstances, present petition is disposed of on merits on the basis of the contentions put forth on the side of the petitioner.

6. The learned counsel appearing for the petitioner has contended that even though the applicant/first respondent herein belongs to Scheduled Caste, the post in question is nothing but an unreserved post and age relaxation cannot be given and similar matter has been decided by the Division Bench of this Court and the Central Administrative Tribunal, without considering the age relaxation sought on the side of the first respondent/appellant has erroneously allowed Original Application No.944 of 2009 and therefore the order passed by the Central Administrative Tribunal is liable to be quashed.

7. In support of the contention raised on the side of the petitioner, the judgment dated 29.7.2015 passed in Writ Petition No.6297 of 2015 (A.Veeraraghavan vs. The Registrar, Central Administrative Tribunal, Madras Bench, Chennai-104) is relied upon, wherein this Court has dealt with an identical issue and in paragraph Nos.14 and 15 of the order, it is stated like thus:

"14. Insofar as this relaxation is concerned, a clarification was issued by the Department of Posts and Telegraphs by an Office Memorandum in O.M.No.36208/27/2001-Estt. dated 11.7.2002 indicating that for considering a candidate as against unreserved vacancies, no relaxation in the upper age will be given.

15. The question as to whether a reserved category candidate can seek relaxation of any of the criteria for being considered as against the unreserved vacancy, was answered by the Supreme Court in Anurag Patel v. UP Public Service Commission (2004 Supp (4) SCR 888). It was held in the said decision that if a candidate belonging to the reserved category finds place in the selection list, after having availed himself the facility of relaxation in norms and exemption in age limit prescribed for the general candidates, on the basis of his preference he ought to be adjusted against the vacancies/posts of the reserved quota. In the light of this judgment, if the writ petitioner is considered against the unreserved vacancy after relaxing the upper age limit, the post occupied by him will have to be treated as a reserved vacancy. This will do injustice to another Scheduled Caste candidate, who seeks appointment as against such reserved vacancy"

8. Even a cursory look of the observation made by the Division Bench of this Court, it is made clear that age relaxation cannot be claimed in case of unreserved category.

9. In the instant case, even in the application, it has been clearly stated that the post in question is set apart for unreserved category. The first respondent/applicant has not been selected mainly due to his overage.

10. Considering the fact that similar issue has been decided in W.A.No.6297 of 2015, wherein the Division Bench has categorically held that age relaxation is not applicable to a post of unreserved category, this Court is of the view that the reason given by the Central Administrative Tribunal, Madras Bench in Original Application No.944 of 2009 is totally erroneous and therefore, the order passed by the Central Administrative Tribunal is liable to be quashed.

In fine, this Writ Petition is allowed without cost. The order dated 6.7.2010 passed in Original Application No.944 of 2009 by the Central Administrative Tribunal is quashed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ajr

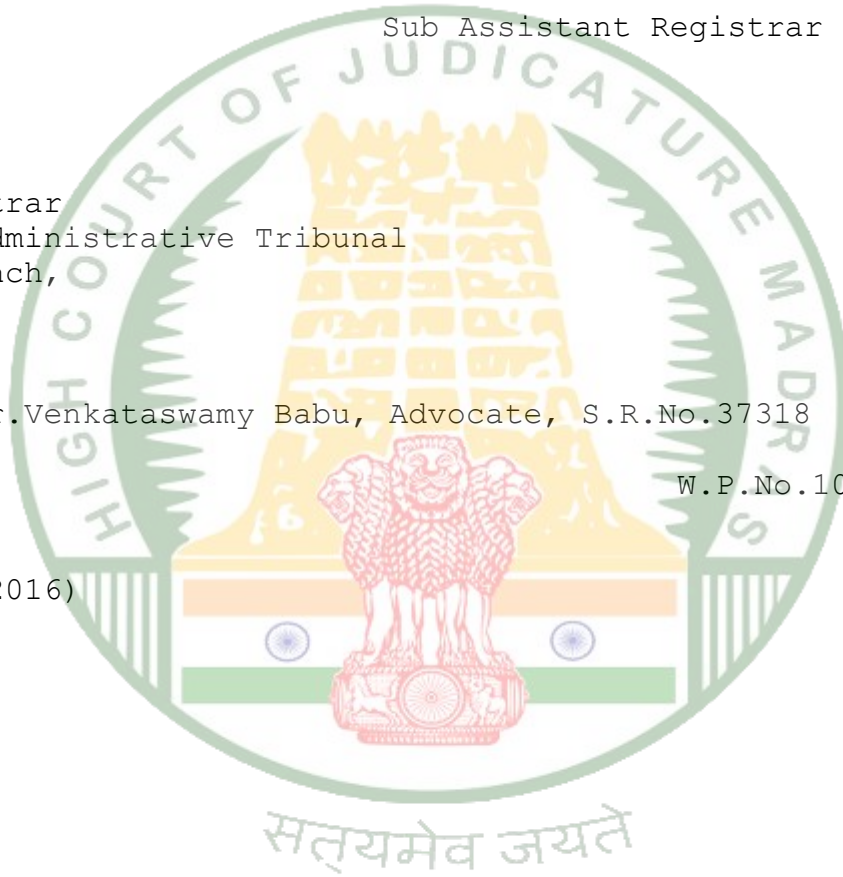
To

The Registrar
Central Administrative Tribunal
Madras Bench,
Chennai.

+1cc to Mr.Venkataswamy Babu, Advocate, S.R.No.37318

W.P.No.10039 of 2011

MP I(CO)
CA(19/07/2016)



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