

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.08.2016

CORAM :

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

W.P.No.10721 of 2015

- 1 Union of India
Rep. by its Secretary
Ministry of Health and Family Welfare
New Delhi-110 001.
- 2 Union of India
Rep. by its Secretary
Ministry of Finance
New Delhi-110 001.
- 3 Union of india
Rep. by its Secretary
Ministry of Law and Justice
Department of Legal Affairs
New Delhi-110 001.
- 4 The Indian Council of Medical Research
Rep. by its Director and Secretary
to Department of Health Research
Ansari Nagar,
New Delhi-110 029.

.. Petitioners

Vs.

- 1 K.Asaithambi
- 2 R.Alamelu
- 3 J.Santhiramabai
- 4 Ruby Premavathy
- 5 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 22.11.2013 made in O.A. No.949 of 2011 on the file of the Registrar General, Central

Administrative Tribunal, Madras Bench, Chennai the 5th respondent herein confirmed in R.A. 19/14 dated 16.6.2014 and quash the same.

For Petitioner: Mr.T.Arunan

For Respondents: Mr.C.Vigneswaran for R1 to R4
R5 - Tribunal

ORDER

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

This writ petition has been directed against the order dated 22.11.2013 passed in Original Application No.949 of 2011 by the Central Administrative Tribunal, Madras Bench, Madras.

2. The respondents 1 to 4 herein, as applicants, have filed Original Application No.949 of 2011 on the file of the Central Administrative Tribunal, Madras Bench, Madras praying to give necessary direction to the fourth respondent to regularize their service.

3. The Central Administrative Tribunal, after considering the divergent contentions raised on either side, has accepted the claim of the respondents 1 to 4/petitioners and consequently directed the fourth respondent to consider their case so as to regularize their service and pass final orders. Against the orders passed by the Central Administrative Tribunal, Madras Bench, the present writ petition has been filed under Article 226 of the Constitution of India.

4. The learned counsel appearing for the petitioners/respondents has contended that the respondents 1 to 4/petitioners have retired on various dates and even on their respective date of retirement, such claim has not been made. Under the circumstances, the claim of the respondents 1 to 4/petitioners is barred by limitation and the Central Administrative Tribunal, Madras Bench, Madras has not at all considered the same and therefore, the impugned order passed by the Central Administrative Tribunal is liable to be quashed.

5. The learned counsel appearing for the respondents 1 to 4/petitioners has contended that in similar matter, the very same defence has been taken by the petitioners and the Central Administrative Tribunal has accepted the same. Against the order passed by the Central Administrative Tribunal, a writ

petition has been filed, wherein specific direction has been given to the concerned respondents to consider the representation made by the petitioners therein and against the order passed in the writ petition, a Special Leave Petition has been preferred before the Hon'ble Supreme Court and the same has been dismissed and since the very same issue has already been settled, the same cannot be raised subsequently and that too, in the present proceedings and therefore, the order passed by the Central Administrative Tribunal, Madras Bench, Madras is perfectly correct and the same does not call for any interference.

6. It is an admitted fact that the respondents 1 to 4/petitioners have filed Original Application No.949 of 2011 on the file of the Central Administrative Tribunal, Madras Bench, praying to give necessary direction to the fourth respondent to regularize their service and pass final orders.

7. It is true that the respondents 1 to 4/petitioners have become retired on various dates. The only defence taken on the side of the petitioners/respondents is that within one year from the date of their retirement, such claim has not been made by the respondents 1 to 4/petitioners and therefore, the same is barred by limitation.

8. As rightly pointed out on the side of the respondents 1 to 4/petitioners, similar defence has already been considered by this Court and this Court negatived the same and thereafter the matter has gone to the Hon'ble Supreme Court and the Supreme Court has also rejected the same.

9. Considering the fact that similar defence has already been taken and the same has been rejected by this Court and confirmed by the Hon'ble Supreme Court, this Court is of the view that the petitioners/respondents are totally precluded from raising the very same point of limitation even in the present case.

10. The Central Administrative Tribunal, after considering the divergent contentions raised on either side, has rightly passed the impugned order and in view of the discussions made earlier, this Court has not found any force in the contentions put forth on the side of the petitioners/respondents and altogether, the present writ petition deserves to be dismissed.

In fine, this Writ Petition is dismissed with cost. The order dated 22.11.2013 passed in O.A.No.949 of 2011 by the Central Administrative Tribunal, Madras Bench, Madras is confirmed. The fourth appellant is directed to execute the order dated 22.11.2013 passed by the Central Administrative Tribunal in Original Application No.949 of 2011, within a period of four months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ajr
To

The Registrar
Central Administrative Tribunal
Madras Bench
Chennai

+1cc to Mr.M.T. Arunan, Advocate, S.R.No.46309
+1cc to Mr.C. Vigneshwaran, Advocate, S.R.No.45921

MG(CO)
EU(31/08/2016)

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