

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE T.MATHIVANAN

Writ Appeal No.6311 of 2010  
& M.P.No.1 of 2010

Union of India,  
rep.by its Secretary,  
Ministry of Information and Broadcasting,  
Shastri Bhavan, New Delhi-1 ..Petitioner

-VS-

1.K.K.Nayagam  
2.The Central Administrative Tribunal,  
Madras Bench,  
City Civil Court Buildings,  
Chennai-104 ..Respondents

WRIT Petition filed under Article 226 of the Constitution of India, for issuance of a writ of certiorari, calling for the records of the second respondent herein, culminating with its order passed in O.A.No.596 of 2007, dated 29.07.2009 and quash the same.

For Petitioner : Mr.A.Kumaraguru

For Respondents : No appearance for R1

ORDER

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

This Writ Petition has been directed against the order dated 29.07.2009 passed in O.A.No.596 of 2007, by the Central Administrative Tribunal.

2. The first respondent herein, as petitioner, has filed O.A.No.596 of 2007, wherein the present writ petitioner has been shown as sole respondent.

3. In O.A.No.596 of 2007 it is averred to the effect that the first respondent herein/petitioner has been appointed as Exhibition Assistant, but the writ petitioner/respondent, by virtue of order dated 27.7.2006 has erroneously fixed the seniority of the first respondent/petitioner. Under the said circumstances, the present application has been filed for getting the relief sought therein.

4. The Central Administrative Tribunal has passed the impugned order and thereby specifically directed the writ petitioner/respondent to fix the seniority of the first respondent/petitioner by way of taking into consideration all services rendered by him as Exhibition Assistant in DAVP from 5.8.1976 to 21.11.1986. Against the order passed by the Central Administrative Tribunal, the present writ petition has been filed under Article 226 of the Constitution of India.

5. Even though the first respondent/petitioner has been served with notice, appearance has not been made. Under the said circumstances, this writ petition is disposed of on merits, on the basis of the contentions put forth on the side of the writ petitioner.

6. The learned counsel appearing for the writ petitioner has contended that the first respondent/petitioner has been selected as Exhibition Assistant only on 30.07.1991, but the Central Administrative Tribunal has erroneously given direction to fix seniority of the first respondent/petitioner as if he served as Exhibition Assistant in DAVP from 5.8.1976 to 21.11.1986 and in fact during the period mentioned in the impugned order the first respondent/petitioner has not been served as an Exhibition Assistant. Under the said circumstances, the impugned order passed by the Central Administrative Tribunal is liable to be set aside.

7. It is seen from the records that the writ petitioner/respondent has prepared a seniority list on 22.3.2004, wherein, the seniority of the first respondent/petitioner has been fixed in Sl.No.165-A. The main contention put forth on the side of the first respondent/petitioner is that he served as an Exhibition Assistant from 5.8.1976 to 21.11.1986. But, as per the contention put forth on the side of the writ petitioner/respondent, he has been appointed only on 30.07.1991 as Exhibition Assistant.

8. The Central Administrative Tribunal has not at all considered the contentions put forth on the side of the writ petitioner/respondent.

9. In fact, this Court has perused the impugned order passed by the Central Administrative Tribunal, wherein the Tribunal has simply directed the writ petitioner/respondent to fix the seniority of the first respondent/petitioner as per the service rendered by him as an Exhibition Assistant from 5.8.1976 to 21.11.1986. In fact, no document has been filed for the purpose of substantiating the contention put forth on the side of the first respondent/petitioner. Under the said circumstances, the impugned order passed by the Central Administrative Tribunal is not perfectly correct and the same is liable to be set aside and the matter is liable to be remitted to the file of the Central Administrative Tribunal for deciding the real issue involved in this matter in extenso, after giving proper opportunity to both parties. Under the said circumstances, this writ petition is liable to be allowed.

In fine, this writ petition is allowed. The impugned order dated 29.7.2009 passed in O.A.No.596 of 2007, by the Central Administrative Tribunal, is set aside, and the O.A.No.596 of 2007 is remitted to the file of the Central Administrative Tribunal and specifically directed to pass a detailed order, after giving proper opportunity to both sides, as early as possible. No costs. Connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Central Administrative Tribunal,  
Madras Bench,  
City Civil Court Buildings,  
Chennai-104.

+1cc to Mr.A.Kumaraguru, Advocate Sr.29879

W.P. No.6311 of 2010

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srg 15/06/2016