

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.29989 of 2011

B.Arulraj

..Petitioner

Vs.

1. Union of India,
rep. by the Central Provident Fund
Commissioner,
Employee's Provident Fund Organisation,
Head Office,
New Delhi.
2. The Regional Provident Fund Commissioner,
Employee's Provident Fund Organisation,
3rd Lane, Krishna Nagar, Guntur,
Andhra Pradesh.
3. The Registrar,
The Central Administrative Tribunal,
Madras Bench,
Chennai - 600 104.

..Respondents

Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pursuant to the order in O.A.No.425 of 2010 dated 30.11.2010 of the third respondent Central Administrative Tribunal, Madras Bench, Chennai, and order dated 22.01.2010 of the second respondent, Regional Commissioner and quash them and direct the respondent 1 and 2 to reinstatement of the petitioner to the post of Manager-cum-Salesman in the office of the second respondent, Regional Commissioner and with all consequential benefits.

For Petitioner : Mr.B.Vijay

For respondents: Mr.V.Vijayshankar
Standing counsel for Provident Fund
for R1 and R2.

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

The petitioner has challenged the order of the 3rd respondent/ Central Administrative Tribunal, Madras Bench, Chennai, made in O.A.No.425 of 2010 dated 30.11.2010 and the order dated 22.01.2010 of the 2nd respondent/ Regional Commissioner of Provident Fund and for a direction to the respondents 1 and 2 to reinstate the petitioner in the post of Manager-cum- Salesman in the office of the second respondent with all consequential benefits.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. The case of the petitioner is that during the course of his employment under the Employees Provident Fund Organisation as Manager-cum-Salesman, he was placed under suspension and thereafter, termination order was issued without conducting any enquiry. Hence, he filed Original Application before the Central Administrative Tribunal and the Tribunal held that the termination simpliciter, which would not affect the future employment prospects of the petitioner and since the petitioner was under probation, the order of termination simplicitor, no enquiry need be conducted and accordingly, dismissed the application, against which, the petitioner is before this Court contending that the said order is a non-speaking order and that the principles of natural justice have also been violated.

4. Though the contention has been raised by the learned counsel for the petitioner that it is a non-speaking order and principles of natural justice have been violated, the said contention is not sustainable for the reason that the prescribed qualification for the said post is pass in Matriculation and one year Diploma in Book Keeping/ Store keeping as is evident from the notification in the Employment News, 8-14 April, 2006, made by the Employees' Provident Fund Organisation (Ministry of Labour, Government of India). Admittedly, the petitioner did not possess the said qualification. Such being the case, the appointment of the petitioner itself is irregular and void abinitio and thus, he was kept under suspension and having found that he was not having requisite qualification for the appointment to the post of Manager cum Salesman, he was terminated from service. For the above reason, the order of termination having been passed, this Court is of the considered view that no fault can be attributed to the said termination order.

5. The further grievance expressed by the petitioner that the said order was passed without following the principles of

natural justice and without following the due procedure as contemplated in law also cannot be entertained since the initial appointment of the petitioner itself was done without verification and after coming to know that he did not possess the requisite qualification, he was kept under suspension and subsequently, he has been terminated from service. In such view of the matter, the decision arrived at by the Central Administrative Tribunal, does not call for interference. Hence, the writ petition is dismissed. However, the order of termination shall not be a stigma for future appointment of the petitioner elsewhere. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

vsi

To

1. The Central Provident Fund
Commissioner, Union of India,
Employee's Provident Fund Organisation,
Head Office,
New Delhi.
2. The Regional Provident Fund Commissioner,
Employee's Provident Fund Organisation,
3rd Lane, Krishna Nagar, Guntur,
Andhra Pradesh.
3. The Registrar,
The Central Administrative Tribunal,
Madras Bench,
Chennai - 104.

1 cc to Mr.B. Vijay, Advocate, Sr. 25465
1 cc to Mr.V. Vijay shankar, Advocate, Sr. 25734

W.P.29989 of 2011

SKS (CO)
kk 10/6