

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 18-08-2016

DELIVERED ON: 07-09-2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Petition No.19907 of 2016

and W.M.P.No.17161 of 2016

1. Union of India
Rep. by the Principal Chief Postmaster General
Tamil Nadu Circle, Chennai - 600 002
2. The Postmaster General
Western Region, TN
Coimbatore 641 002
3. Director of Postal Services
Western Region, TN
Coimbatore 641 002
4. The Senior Superintendent of Post Offices
Salem West Division
Salem 636 005 ... Petitioners

Vs.

1. The Registrar
The Central Administrative Tribunal
Madras Bench
Chennai
2. P. Dhanavel ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records in respect of the impugned order made in O.A.No.310/00061/2014 dated 13-08-2015 on the file of the first respondent and quash the same and to pass further orders.

For petitioners : Mr. Su. Srinivasan
For Respondents : Mr. K.M. Ramesh for R2
R1 - Tribunal

ORDER

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

This writ petition has been filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari calling for records relating to the order passed in O.A.No.310/00061/2014 dated 13-08-2015 by the first respondent herein and quash the same.

2. The second respondent as applicant has filed O.A.No.310/00061/2014 on the file of the Central Administrative Tribunal, Madras Bench wherein the petitioners have been shown as respondents.

3. In O.A.No.310/00061/2014, it is averred that the applicant has joined as casual Driver in the office of the fourth respondent on 15-01-1985 and he has been working continuously without any break. He has been appointed as Cleaner on 24-09-1991 and subsequently, he has been directed to officiate as Semi-skilled Mechanic from 22-11-1995. After undergoing necessary tests/interviews, he has been appointed as Driver in the time scale of Rs.3050-4590 by the order dated 24-10-2005. Under the said circumstances, he has made a representation to regularize his services from 15-01-1985. But the fourth respondent by order dated 30-12-2013 has rejected the request of the applicant. Under the said circumstances, the present Original Application has been filed for getting the relief sought therein.

4. The Central Administrative Tribunal, Madras Bench after considering the contentions put forth on either side and also after considering the facts that similar requests has been conceded in O.A.Nos.518 of 1988, 1061 of 1997 and 141 of 2003 has allowed O.A.No.310/00061/2014 by way of passing the impugned order and the same is being challenged in the present writ petition by the respondents.

5. The learned counsel appearing for the petitioners has contended that the facts mentioned in O.A.Nos.518 of 1988, 1061 of 1997 and 141 of 2003 are not similar to that of the facts mentioned in the present case. In the present case, the second respondent/applicant has been appointed as casual Driver in the

office of the fourth respondent on 15-01-1985 and on 24-09-1991, he has been appointed as Driver in time scale of pay and since the first respondent/applicant has acted in different capacity, his service cannot be regularised from 15-01-1985, the date on which he has been appointed as casual labour. But the Central Administrative Tribunal, Madras Bench has erroneously followed the orders passed in O.A.Nos.518 of 1988 and 1061 of 1997 and therefore, the impugned order passed by the Central Administrative Tribunal, Madras Bench is liable to be set aside.

6. The learned counsel appearing for the second respondent/applicant has sparingly contended that the applicants found in O.A.Nos.518 of 1988 and 1061 of 1997 have also been appointed as casual Driver and subsequently, their services have been regularised from the date of their respective appointment. Under the said circumstances, the Central Administrative Tribunal has rightly allowed O.A.No.310/00061/14 by way of passing the impugned order and therefore, the impugned order passed by the Central Administrative Tribunal, Madras Bench does not suffer from any infirmity.

7. It is an admitted fact that the first respondent/applicant has been appointed as casual Driver on 15-01-1985 and subsequently, he has been appointed as Cleaner on 24-09-1991 and finally, he has been appointed as Driver in time scale of pay of Rs.3050-4590 on 24-10-2005.

8. The only defence taken on the side of the petitioners/respondents is that after appointment as casual Driver, the applicant has been appointed as Cleaner in some other category. Under the said circumstances, his service cannot be regularised from 15-01-1985, the date on which he has been appointed as casual Driver.

9. In fact, this Court has perused the orders passed in O.A.Nos.518 of 1988 and 1061 of 1997, by the Central Administrative Tribunal, Madras Bench wherein the applicants have also been appointed as casual Drivers and their services are ordered to be regularised from the date of their appointment as casual Driver and in pursuance of the orders passed by the Central Administrative Tribunal, their services have also been regularised.

10. It is true that in the instant case, initially the first respondent/applicant has been appointed as casual Driver and subsequently, appointed as cleaner and finally, appointed as Driver on the basis of time scale of pay. Since the second respondent/applicant has been subsequently appointed as Cleaner, the petitioners/respondents have taken such kind of defence. As rightly pointed out on the side of the second respondent/applicant, there is no break in service, even though

the second respondent/applicant has been appointed as Cleaner. Since there is no break of service and since finally, he has been appointed as Driver in the time scale of pay, this Court is of the view that his service has to be regularised only from 15-01-1985, the date on which he has been appointed as casual Driver. Even in the orders passed in O.A.Nos.518 of 1988 and 1061 of 1997, the Central Administrative Tribunal, Madras Bench has taken a definite conclusion to the effect that the Drivers appointed as casual workers are entitled to get regularisation of their service from the date of their initial appointment. Therefore, viewing from any angle, the contentions put forth on the side of the petitioners/respondents cannot be entertained. Under the said circumstances, the present writ petition deserves to be dismissed.

In fine, the writ petition is dismissed without costs. The order in O.A.No.310/00061/2014 dated 13-08-2015 by the Central Administrative Tribunal, Madras Bench is confirmed. Consequently, connected W.M.P.No.17161 of 2016 is also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

glp

To

1. The Registrar
Central Administrative Tribunal
Chennai - 600 104

+1 cc to M/s.Su.Srinivasan Advocate sr 50574

+1 cc to Mr.K.M.Ramesh Sr 50704

Order in
Writ Petition No.19907 of 2016

aa19/09/2016