

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 02.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P. NO. 36267 OF 2015
AND

M.P. NOS. 1 & 2 OF 2015

1. Union of India rep. by
Director of Postal Services
O/o Postmaster General
Western Region (TN)
Coimbatore 641 002 /
Director (MB), Greams Road
The Appellate Authority
for the Staff of Western Region
Coimbatore.
2. The Senior Superintendent of Posts
Erode Division, Erode 638 001. ... Petitioners

- Vs -

1. The Registrar
Central Administrative Tribunal
Chennai.
2. K.Avinashilingam .. Respondents

Writ petition filed for the issuance of a writ of certiorarified mandamus calling for the records from the file of the first respondent made in M.A. Nos.310/00456/14, 310/00457/14 and 310/00458/14 in O.A. No.813 of 2010 dated 21.7.2014, quash the same and further extend the time by three months for completing the enquiry.

For Petitioners: Mr. Su.Srinivasan,
Asst. Solicitor General

For Respondents: Mr. C.Premkumar for R-2

ORDER
(DELIVERED BY R.SUDHAKAR, J.)

The petitioner, Union of India, aggrieved by the order passed by the Tribunal rejecting its prayer for extension of time to complete the enquiry, is before this Court by filing the present petition.

2. The 2nd respondent was put on notice and though typed set was given on the earlier occasion, however, it is stated by the learned counsel for the 2nd respondent that they have handed over the same to the 2nd respondent for signature. Nevertheless, another copy of the affidavit and typed set of documents were given today to the learned counsel for the 2nd respondent in Court and the matter is taken up for hearing.

3. Heard the learned Asst. Solicitor General appearing for the petitioner and the learned counsel appearing for the 2nd respondent and perused the typed set of documents.

4. The facts in brief, necessary for the disposal of this petition, are as hereunder :-

The 2nd respondent, at the time of initiation of the departmental enquiry, was working as Gramin Dak Sevak in Sembulichampalayam Branch Office. The 2nd respondent was charged for the offence of misappropriation of funds by closing a recurring deposit account standing in the name of one Smt. V.Amsavalli to the tune of Rs.11,157/=. While this Court is concerned with the departmental action in the present case, it is informed by the learned standing counsel for the petitioners that a FIR in Crime No.31/2008 has been registered and charge sheet has been filed in C.C. No.97/11 before the Judicial Magistrate Court, Bhavani, for an offence under Section 409 IPC.

5. On the initiation of departmental proceedings, the memorandum of charge was furnished to the delinquent along with documents on 30.6.08. The delinquent/2nd respondent herein challenged the departmental proceedings in O.A. No.813/2010. On 18.7.10, counter was filed by the department and in January, 2011, rejoinder was filed by the delinquent. After hearing the parties, order was passed by the Tribunal on 6.11.12 in O.A. No.813/2010 directing the department to proceed and complete the enquiry within a period of four months. However, the enquiry could not be completed within the time fixed and, therefore

miscellaneous application seeking extension of time was filed in M.A. No.270/2013 and 271/2013 and, accordingly, time of eight weeks was granted by the Tribunal on 26.4.13.

6. In the meanwhile, the enquiry officer proceeded and held the proceedings on 1.4.13 and 6.4.13. Subsequent to the grant of extension of time by the Tribunal, the enquiry officer conducted the proceedings on 22.5.13. Thereafter, another miscellaneous application in M.A. Nos.710 & 711/2013 was filed by the Department seeking further extension of time and the Tribunal, vide order dated 30.10.13, granted further time of three months for completing the departmental proceedings. Pursuant to the grant of time, enquiry was once again held on 20.1.14, but, however, the enquiry could not be concluded before the expiry of three months time granted by the Tribunal. Therefore, the department was forced to file miscellaneous applications with condonation of delay petition for extension of time for completing the enquiry. It is pertinent to note that in all the miscellaneous applications filed for extension of time, the consistent stand of the petitioner/department is that the 2nd respondent/delinquent was refusing to co-operate with the enquiry on the ground that except for one document, where original was provided to the delinquent, insofar as the other documents relied on by the department, only photocopies were given, though the delinquent/respondent sought for original documents. The reason for the department not being able to produce the original documents for perusal of the delinquent was on account of the fact that all those documents are in the custody of the Court in the criminal trial initiated against the delinquent in C.C. No.97/2011 on the file of the Judicial Magistrate, Bhavani. Due to the persistent insistence of the delinquent that he should be allowed to peruse the originals of the documents relied on by the department, after several attempts made by the department, only on 12.8.14 the department was able to obtain certified copies of the documents from the Judicial Magistrate Court, Bhavani. The above fact is evident from the proceedings of the enquiry officer dated 3.9.14. Though the above facts have been highlighted in the affidavit filed along with the petition for extension of time, without considering the same, the Tribunal has rejected the request for extension of time by a cryptic order.

7. Learned counsel appearing for the delinquent/2nd respondent fairly stated before this Court that if certified copies of the documents are furnished to him, the 2nd respondent will co-operate with the department for the early conclusion of the departmental proceedings.

8. In the light of the above factual scenario, we find that the order of the Tribunal refusing to extend the time is very cryptic, bereft of any reasons and without application of mind to the details of the facts given in the affidavit dated 16.4.14, filed by the department in support of the application seeking extension of time, where the deponent has given in extenso reasons and also highlighted the dilatory tactics adopted by the 2nd respondent which has led to the non-conclusion of the enquiry proceedings.

9. In the above circumstances, while this Court cautions the officers of the department for dithering the enquiry proceedings merely on the apprehension expressed by the delinquent without taking any concrete steps for obtaining the certified copy of the documents from the trial court in time, which has caused this confusion, in the interests of justice, this Court is of the considered view that the order of the Tribunal refusing to grant extension of time is liable to be set aside and time has to be extended for concluding the departmental proceedings.

10. Accordingly, the impugned order passed by the Tribunal is set aside and time is extended upto 30.4.2016 for the department/petitioner to conclude the departmental proceedings. This Court also takes on record the undertaking given by the learned counsel for the 2nd respondent/delinquent that the 2nd respondent/delinquent will co-operate with the department for the early conclusion of the enquiry. It is further made clear that the enquiry proceedings shall proceed on a day-to-day basis and under no circumstances the proceedings shall be adjourned beyond two consecutive working days at any point of time.

11. This writ petition is allowed with the above observations and directions. Consequently, connected miscellaneous petition is closed. However, in the circumstances of the case there shall be no order as to costs.

Sd/-

Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

GLN

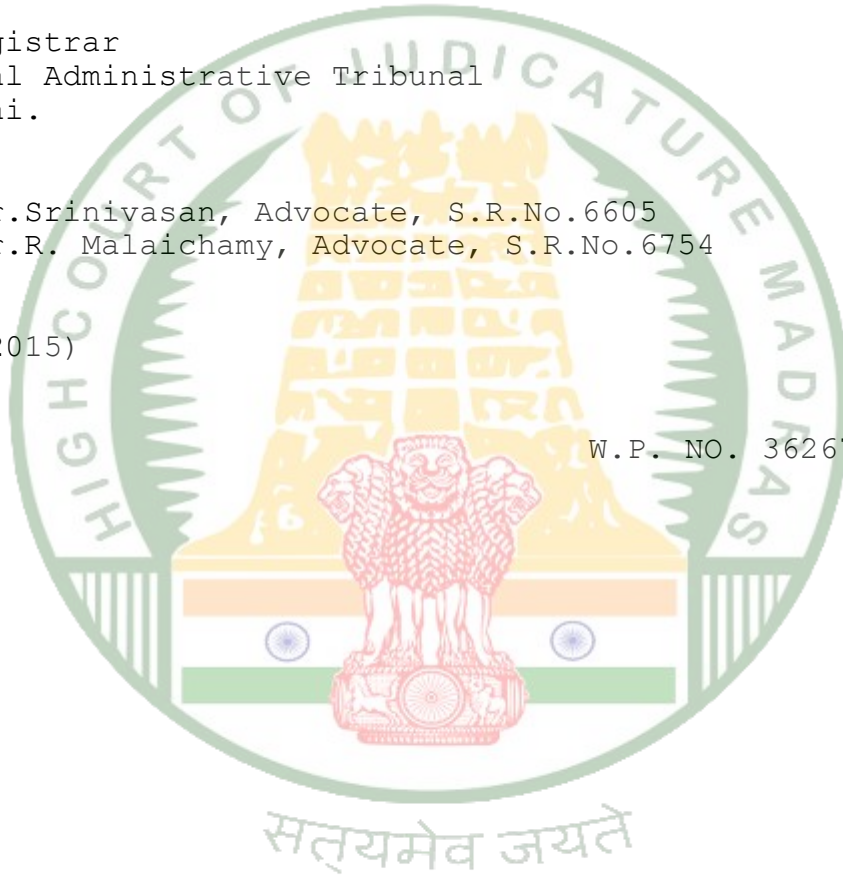
To

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3. The Registrar
Central Administrative Tribunal
Chennai.

+1cc to Mr.Srinivasan, Advocate, S.R.No.6605
+1cc to Mr.R. Malaichamy, Advocate, S.R.No.6754

VSN(CO)
EU(23/02/2015)

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