

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 08.12.2016

Coram

The Honourable Mr. Justice K.K.SASIDHARAN
and
The Honourable Mr. Justice V.PARTHIBAN

W.P.No.40743 of 2015

Joseph Paulraj

.. Petitioner

Versus

1. Union of India, rep.
by The Post Master General,
Southern Region,
Madurai-625 002.

2. The Director of Postal Services,
O/o The Post Master General,
Southern Region,
Madurai-625002.

3. The Superintendent of Post Offices,
Dindigul Division,
Dindigul-624 001.

4. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai-600 104.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the entire records of the 4th respondent/Tribunal in relating to M.A.No.673 of 2012 in Dy.No.3107/2012 in O.A.No.1314 of 2013, quash the order passed therein dated 17.9.2013.

For Petitioner : Mr.N.Gnanalingam

For Respondents: Mr.Madhana Gopal Rao-R1toR3

ORDER

(Order of the Court was delivered by
V.PARTHIBAN, J.)

This Writ Petition has been filed, questioning the order passed by the Central Administrative Tribunal, Madras Bench, 4th respondent herein, dated 17.9.2013 in M.A.No.673 of 2012 in Dy.No.3107/2012, which was subsequently numbered as O.A.No.1314 of 2013.

2. The writ petitioner approached the Central Administrative Tribunal (in short, 'the Tribunal'), by way of Original Application, praying for conferment of permanent status to him in Group D cadre, with effect from 29.11.1989 instead of 12.12.2001 with all consequential benefits. As there was huge delay in filing the said Original Application, the writ petitioner was constrained to move an application, seeking to condone the delay of 3720 days.

3. According to the writ petitioner, he was approaching the wrong forum, seeking retrospective benefit of conferment of permanent status from 1989 onwards and he was pursuing his remedy under Right to Information Act and finally, his claim was rejected by the second respondent on 10.11.2010 and the appeal preferred by him was also rejected by the appellate authority dated 15.9.2011 and thereafter, he approached the Tribunal. In the meanwhile, there occasioned the delay of more than 10 years since the matter had been pursued in wrong forum, i.e. before the Central Information Commission and he realized only after an order was passed by the Central Information Commission on 18.1.2012 stating that the claim of the writ petitioner was a service matter and he was advised to raise the same before the appropriate forum. Thereafter, it appears that the petitioner moved an Original Application along with a condone delay application before the Central Administrative Tribunal. By order, dated 17.9.2013, the Tribunal, while rejecting the delay condone application, also rejected the Original Application. Questioning the same, the petitioner has come forward with the present writ petition.

4. Heard the learned counsel for the petitioner and the respondents.

5. Learned counsel for the petitioner pleaded that the petitioner, being a last grade servant, was not aware of the procedure and due to lack of proper guidance and advice, he had been pursuing his remedy before a wrong forum and only in 2012, he was finally advised by the Central Information Commission that the remedy sought for by the petitioner cannot be granted by the Commission and he had to seek his remedy before the appropriate forum and after realizing the same, the petitioner

approached the Tribunal and there occasioned the delay, which was neither willful nor wanton.

6. Learned counsel for the respondents, however, contended that the delay was quite inordinate and the Tribunal had rightly dismissed both the miscellaneous application and the original application on the ground of delay and laches, which requires no interference.

7. Considering the facts and the explanation given by the petitioner and having regard to the fact that the petitioner belongs to the last grade servant and as having no proper guidance and advice, he could not approach the right forum within a prescribed time limit to pursue his remedy. In view of the peculiar circumstances of the case and since the matter was not decided on merits and in the interest of justice, we are of the view that an opportunity should be provided to the petitioner and the matter is required to be decided on merits.

8. Accordingly, while condoning the delay, the matter is remitted back to the Tribunal/4th respondent for fresh consideration of O.A. in accordance with law and on merits, after affording an opportunity to the petitioner and the respondents.

With the above direction, this Writ Petition is disposed of.
No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Post Master General,
Union of India,
Southern Region,
Madurai-625 002.
- 2.The director of Postal session
Post Master General,
Southern Region,
Madurai-625 002.
- 3.The Superintendent of Post Offices,
Dindigul Division,
Dindigul-624 001.

4.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai-600 104.

+1cc to Mr.Gnanalingam Advocate, SR. No.72197
+1cc to Mr.Madanagopal Rao Advocate Sr.No.72298

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KS (CO)
GN(19/01/2017)



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