

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.285 of 2016
and
W.M.P.No.177 of 2016

M.B. Shahjahan

..Petitioner

Vs.

1. Union of India,
rep. by the Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai,
Chennai - 600 002.
2. K.Raveendran,
Inquiry Officer &
Senior Superintendent of Post Offices,
Chennai City North division,
Chennai - 600 008.
3. The Registrar,
Central Administrative Tribunal,
Chennai - 600 104.

..Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorari to call for the records pertaining to the order of the 3rd respondent Tribunal made in O.A./310/01377/2015 dated 15.10.2015 and quash the same.

For Petitioner : Mr.R.Malaichamy
For respondents : Mr.J.Madanagopal Rao,
SCGSC for R1
R3-Tribunal

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O R D E R

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

The petitioner has challenged the order of the third respondent/Tribunal made in O.A.No.310/01377/2015 dated 15.10.2015 wherein, the request made by the petitioner to set aside the charge sheet filed against him was rejected.

2. The petitioner is working as Senior Postmaster, T.Nagar, Chennai. It is the case of the petitioner that while the petitioner was working as Deputy Chief Postmaster (Treasury) Chennai GPO, a charge sheet dated 26.11.2014 was issued under Rule 14 of CCS (CCA) Rules, 1965, stating that the petitioner has allowed to continue the stop gap arrangement of one G.Karunakaran in the post of EDMC (Extra Department Material Carrier), Desur S.O. with effect from 30.03.1991 and the petitioner facilitated the transfer of the said G.Karunakaran from Desur S.O. to Chitragavurpudur B.O. by order dated 19.03.1994, as if he was regularly appointed and also extended the benefits counting the past service and also made another transfer from Chitragavurpudur B.O. to the post of E.D. Packer-1, Desur S.O. by an order dated 2001. Therefore, a charge sheet was issued for the said violation, though the incident had happened 22 years back. The 2nd respondent has been appointed as Inquiry Officer. Since the 1st respondent has not given proper reason for conducting inquiry against the petitioner belatedly and some of the documents relied on were not supplied to the petitioner and some of the original documents were not produced for perusal of the petitioner, the petitioner requested to drop the proceedings initiated against him. Since the said request was acceded to by the respondents, the petitioner filed Original Application before the tribunal, However, the said Original Application filed challenging the charge sheet was dismissed by the Tribunal at the admission stage itself. Hence, the present writ petition has been filed.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent Department.

4. It appears that there is alleged illegality and irregularity in the matter of appointment of a person by way of stop gap arrangement when the petitioner was working as Assistant Superintendent of Post Offices way back in 1992. Charges have been framed alleging misconduct and the charge sheet was issued after 14 years and the same has been challenged before the Tribunal and the Tribunal, even at the threshold, has dismissed the said application.

5. The reasoning assigned by the petitioner for the said

appointment is that such a contingency warrants appointment of one EDMC (Extra Department Material Carrier) as a stop gap arrangement in the Village section. The core question that arises for consideration is whether such a contingency arises and in such event, whether the appointment made is illegal and beyond the power of the petitioner. It is the submission of the respondent that the act of the petitioner is a grave one. However, it is trite law that to proceed against the petitioner and to impose any punishment, disciplinary proceedings has to be initiated and it should be in a time bound manner. In the present case, the charge sheet was served after 14 years. It is surprise to note that the Department had kept quiet for nearly 14 years to invoke and to hold the disciplinary enquiry against the petitioner and no reason has been assigned for such inordinate delay. However, the Tribunal, without considering the delay of 14 years in filing the charge sheet against the petitioner, has passed the order mechanically.

6. In the above circumstances, we are of the view that the rejection of the Application by the Tribunal, which was filed praying for closing the departmental enquiry, is without any basis, assigning any reason whatsoever. Therefore, the impugned order dated 15.10.2015 passed by the 3rd respondent/Tribunal, deserves to be set aside.

7. Accordingly, the order passed by the Tribunal is set aside and the matter is remitted back to the Tribunal to pass appropriate order considering the facts and circumstances of the case and also the inordinate delay in serving the charge sheet on the petitioner. The Tribunal shall take a decision within a period of three months from the date of receipt of a copy of this order. It is left open to the petitioner to raise all the above contentions raised herein before the Tribunal. It is also open to the parties to contest the matter by filing necessary pleadings before the Tribunal.

8. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

vsi

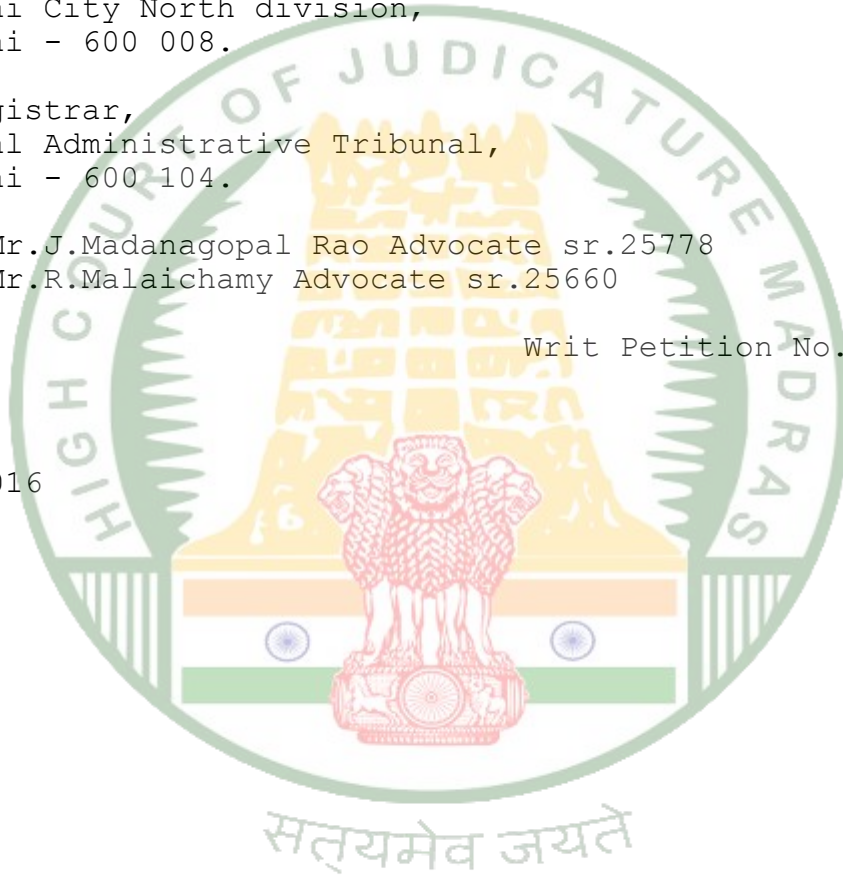
To

1. The Chief Postmaster General,
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+1 cc to Mr.J.Madanagopal Rao Advocate sr.25778
+1 cc to Mr.R.Malaichamy Advocate sr.25660

Writ Petition No.285 of 2016

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aa10/06/2016



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