

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM

THE Hon'ble Mr.JUSTICE K.K. SASIDHARAN

AND

THE Hon'ble Mr.Justice N. AUTHINATHAN

W.P.No.40316 of 2016

L. Alagappan

.... Petitioner

vs

1. The Union of India,
represented by the Secretary,
Department of Posts,
Dak Bhavan,
New Delhi - 110 001
2. The Chief Post Master General
of Tamil Nadu Circle,
Chennai - 600 002
3. The Superintendent of Post Officers,
Karaikudi Division,
Karaikudi - 630 003
4. The Inspector of Posts,
Karaikudi Sub Division,
Karaikudi
5. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai - 600 001

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 02.08.2016 made in O.A.No.310/00586/2014 on the file of 4th respondent to quash the same and consequently direct the respondents 1 to 4 to pay the gratuity amount for the service rendered by the petitioner with all other monetary emoluments within the stipulated time.

For petitioner : Mr.C. Prabakaran
For R.1 to R.4 : MrK.S. Jayaganeshan
CGSC
ForR.5 : Tribunal

ORDER

(Order of the Court was made by N. AUTHINATHAN,J.,)

With the consent of the learned counsel on both sides and in view of the short question that falls for consideration, the writ petition is taken up for final disposal.

2. The petitioner has filed the present writ petition to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 02.08.2016 made in O.A.No.310/00586/2014

on the file of 4th respondent to quash the same and consequently direct the respondents 1 to 4 to pay the gratuity amount for the service rendered by the petitioner with all other monetary emoluments.

3. The petitioner was ininitally appointed as Extra Departmental Packer (ED Packer) at Karaikudi Angadi Extra Departmental Sub Office (EDSO). The Department had contemplated Disciplinary proceedings against the petitioner. He was placed under put-off duty with effect from 20.01.2009. 25% of his Time Related Continuity Allowance (TCRA) together with admissible DA was ordered to be paid to the petitioner for the period for which he was kept off duty. Departmental action was taken against him by issuing a Memo No.B2/LA/IP/KKD dated 27.04.2009 on the allegation that he disregarded the instructions of the superiors and thereby wilfully refusing to carry out the assigned work.

4. The Disciplinary Authority concerned imposed a punishment of Censure on the petitioner by an Order dated 27.04.2009. The order of put-off duty was also revoked and he was permitted to join duty on 27.04.2009.

5. The petitioner submitted his letter of resignation dated 03.2.2011. His offer for resignation from service was accepted by the Inspector of Posts vide Memo No.GDS MP/Resign dated at Karaikudi 630 001 the 07.04.2011. Thereafter, the petitioner made representations to the Department requesting them to pay the arrears of salary for the period of put-off duty

from 20.01.2009 and the other attendant benefits along with gratuity amount. Subsequently, he approached the Central Administrative Tribunal (CAT) by way of Original Application in OA No.586 of 2014 for the following reliefs:

" to direct the respondents to pay the service benefits of the applicant together with gratuity, retirement benefits with all attendant and consequential benefits with the prevailing rate of interest, pursuant to the representation of the applicant dated 09.05.2013".

6. The claim of the petitioner was contested by the Department before the Central Administrative Tribunal. They took a plea that the petitioner was not eligible for grant of service benefits such as gratuity as per GDS (Conduct & Engagement) Rules, 2011. According to them, the claim of the petitioner was not considered for grant of ex-gratia Gratuity and Severance Amount as per the said Rules, as he has quit the Agency on his own. No amount was due to him under the head back wages. All the dues payable to him for the period of put-off duty i.e., 20.01.2009 to 30.04.2009, had already been paid to him. They have taken a plea before the Central Administrative Tribunal that in the Order accepting the resignation, it was not stated that the resignation was on account of medical grounds. No gratuity is payable as per Rule 6 (13) of Department of Posts, Gramin Dak Savak (Conduct and Engagement) Rules 2011, if an ED agent quits the agency on his own.

7. The Central Administrative Tribunal held that as per the Rules, the petitioner is not entitled to Gratuity on the ground that the petitioner has quit the service on his own. It has observed that the petitioner had already received the allowances for the put-off duty and dismissed the original application. Aggrieved by the above said order, the petitioner has filed the present writ petition praying for the relief as stated above.

8. The learned counsel for the petitioner would submit that under Rule 6 (14) of GDS Rules, if an employee quits the service due to circumstances beyond his control, he is entitled to ex-gratia gratuity. According to him, Rule 6(14) applies to the petitioner as he has quit the service on medical grounds.

9. A close reading of the letter of resignation of the petitioner would clearly reveal that he quit the service only on medical grounds. In his letter, he has explained that he met with an accident and due to his ill-health, he could not work.

He enclosed the Medical Certificate with the letter of resignation sent to the Department. He requested the authorities to discharge him from duty on the ground of invalidation. The Medical Certificate reveals that the petitioner was suffering from Disc Prolapse of Spinal cord, sciatica and dislocation of right knee joint due to an accident and corrected with malunion. The Civil Surgeon certified that due to his health condition and physical defects, the petitioner could not continue his job. This resignation letter was accepted by the Department with immediate effect vide letter dated 07.04.2011. Obviously, the petitioner has quit the service on account of his physical disability as borne out by medical records. The omission on the part of the employer to state in the letter of acceptance of the resignation could not be put against the petitioner in the circumstances of the case for after all it was only on medical grounds the letter of resignation has been tendered followed by its acceptance by the employer/competent authority. The letter of acceptance of resignation should be construed as an order of termination on medical grounds. Therefore, the Department cannot be permitted to contend that his resignation was not on account of circumstances beyond his control.

10. Rule 6 (14) of GDS (Conduct and Engagement) Rules reads thus:

14(Ex-gratia gratuity to Ed Agents who quit service due to circumstances beyond their control

In supersession of the order contained in Letter NO.48-89/75-Pen., dated 24.01.1979 (not printed), it has now been decided that ex gratia may be paid to ED Agents who quit service on account of medical grounds without relevance to the age, provided the other conditions for grant of gratuity such as minimum qualifying service, etc., are fulfilled. In order to safeguard against malpractices, invalidation should be supported by a certificate issued by a Civil Surgeon."

The case at hand certainly comes within the sweep of Rule 6 (14).

11. In the case at hand, as has already been pointed out, the petitioner quit the service on account of medical grounds without relevance to the age. It is supported by a Medical Certificate issued by a Senior Civil Surgeon. It is not in dispute that the other conditions for grant of gratuity are fulfilled in the case of the petitioner.

12. For the reasons stated supra, we hold that the impugned order of the Central Administrative Tribunal could not be sustained and it is liable to be interfered with. The petitioner is entitled to ex-gratia gratuity in terms of Rule 6 (14) of GDS (Conduct and Engagement) Rules. The writ petition is allowed. The respondents 1 to 4 are directed to pay the ex-gratia gratuity in terms of Rule 6 (14) of GDS (Conduct and Engagement) Rules within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sr
To

1. The Union of India,
represented by the Secretary,
Department of Posts,
Dak Bhavan,
New Delhi - 110 001
2. The Chief Post Master General
of Tamil Nadu Circle,
Chennai - 600 002
3. The Superintendent of Post Officers,
Karaikudi Division,
Karaikudi - 630 003
4. The Inspector of Posts,
Karaikudi Sub Division,
Karaikudi
5. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai - 600 001

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.68699
+1cc to Mr.KS.Jeyaganeshan, Advocate, S.R.No.68819

crs (CO)
bb (27/12/2016)

W.P.No.40316 of 2016