

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM

THE HON'BLE Mr.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE Mr.JUSTICE M.V.MURALIDARAN

W.P.No.7024 of 2017
and
WMP.No.7653 of 2017

- 1.The Union of India,
Rep. by its Secretary,
Ministry of Finance,
Department of Revenue,
New Delhi.
- 2.The Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
6th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi - 110 003.
- 3.The Assistant Director, (Estt.)
Directorate of Enforcement,
Government of India,
Ministry of Finance,
6th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi - 110 003.
- 4.The Joint Director,
Directorate of Enforcement,
Government of India, Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006. ... Petitioners

1. R.Ganesh

vs.

- 2.The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Buildings,
Chennai - 600 104.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records relating to the order of the Central Administrative Tribunal, Madras Bench passed in O.A.No.132 of 2014 dated 11.04.2016 and quash the same.

For Petitioners: Mr.C.V.Ramachandra Murthy
(SCGSC)
For Respondents: Mr.L.Chandrakumar [R1]
R2 - Tribunal

O R D E R

K.K.SASIDHARAN, J.

The first respondent filed Original Application before the Central Administrative Tribunal, Madras Bench, in O.A.No.132/2014, challenging the order dated 30.01.2014, issued by the Assistant Director (Estt), Directorate of Enforcement, New Delhi, indicating that he is not eligible for appearing in the examination for promotion to the post of Assistant Enforcement Officer as per the existing Recruitment Rules. The first respondent secured an interim order from the Tribunal to take part in the selection process. Thereafter, by another interim order, the Tribunal directed the Enforcement Directorate to convene a Departmental Promotional Committee and to declare the results. Subsequently, the Tribunal closed the Original Application on the ground that the first respondent has no grievance, without even considering the earlier interim order permitting the participation of the first respondent in the selection process, subject to the result of the Original Application. The order closing the Original Application is challenged in this Writ Petition.

2. We have heard the learned Senior Central Government Standing Counsel appearing for the petitioners and the learned counsel for the first respondent.

3. The Directorate of Enforcement invited applications for conducting Limited Departmental Competitive Examination for promotion to the post of Assistant Enforcement Officer from among the qualified officers in the feeder cadre. Since the first respondent was not having the required qualified service of 9 years in the cadre of Upper Division Clerk, his application was not considered.

4. The first respondent challenged the order dated 30.01.2014, rejecting his candidature on account of his ineligibility in O.A.No.132/2014.

5. The Tribunal at the instance of the first respondent passed an interim order permitting him to take part in the Limited Departmental Competitive Examination for the post of Assistant Enforcement Officer scheduled to be held from 26.2.2014 to 28.2.2014 or any other subsequent date. The Tribunal indicated that the result would be subject to the final outcome of the Original Application.

6. The first respondent was permitted to take part in the Limited Departmental Competitive Examination, pursuant to the interim order dated 18.02.2014. Thereafter, the Tribunal opened the sealed cover and having found that the first respondent succeeded in the examination, closed the Original Application.

7. The Tribunal was expected to consider the merits of the matter in view of the challenge made by the first respondent to the order dated 30.01.2014. The first respondent adopted a short-cut method of obtaining an interim order subject to the result of the Original Application and thereafter not pressing the application, after finding that he was eligible for promotion to the post of Assistant Enforcement Officer. The counsel who appeared on behalf of the petitioners herein also supported the first respondent by making a joint request before the Tribunal to close the Original Application.

8. The very eligibility of the first respondent to take part in the selection process is challenged by the petitioners. The Tribunal without even considering the impugned order, closed the Original Application by recording the subsequent event that the name of the first respondent was placed by the Departmental Promotional Committee above Smt.V.Kalaiselvi and below Smt.Charanjeet Kaur. While closing the Original Application, the Tribunal failed to consider the material fact that the earlier interim order permitting the first respondent to take part in the selection process was subject to the result of the Original Application. Since the Tribunal abruptly closed the Original Application without considering the issue raised by the first respondent and the contentions taken by the petitioners, necessarily the order dated 11.04.2016 is liable to be set aside.

8. In the result, the order dated 11.04.2016 is set aside. The Original Application in O.A.No.132/2014 is restored to file. The Central Administrative Tribunal is requested to consider the merits of the matter in the light of the reply statement filed by the petitioners. Such exercise shall be completed preferably within a period of three months from the date of receipt of a copy of this order.

9. The Writ Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy/

Sub Assistant Registrar

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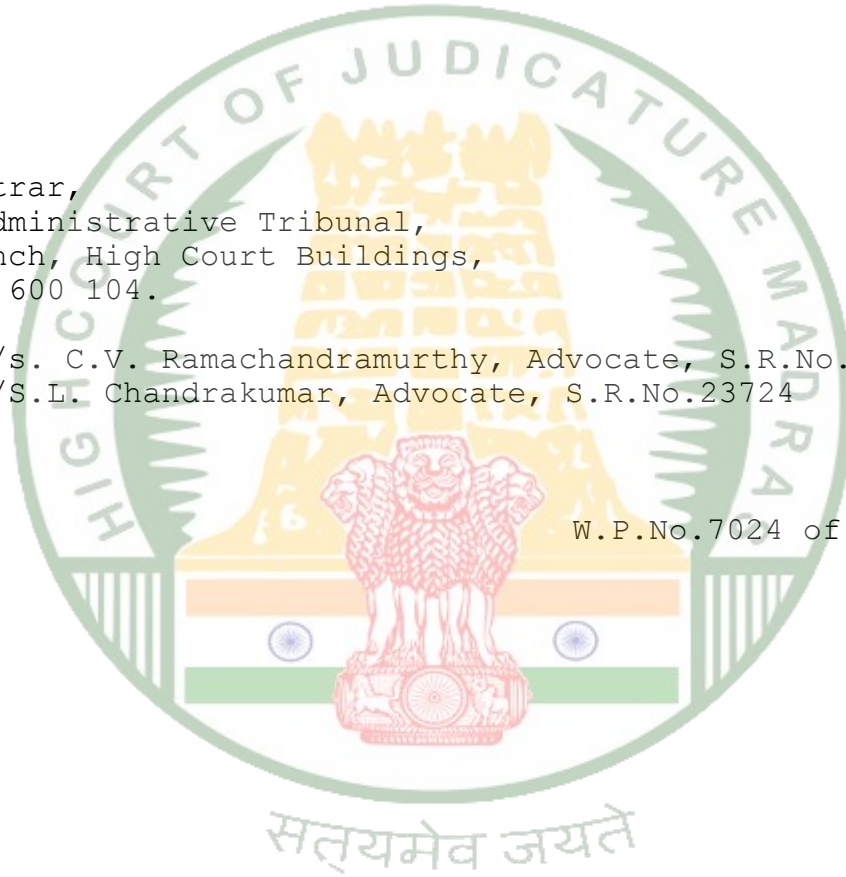
To:

The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Buildings,
Chennai - 600 104.

+1cc to M/s. C.V. Ramachandramurthy, Advocate, S.R.No.23156
+1cc to M/S.L. Chandrakumar, Advocate, S.R.No.23724

SS(CO)
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