

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2017

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The Honourable Mr. JUSTICE K.K.SASIDHARAN,
and
The Honourable Mr.JUSTICE V.PARTHIBAN

W.P.No.4934 OF 2017
and W.M.P.No.5165 of 2017

1. Union of India,
Rep. by the Chief Post Master General,
Tamil Nadu Circle,
Anna Salai,
Chennai - 600 002
2. The Director of Postal Services,
O/o the Postmaster General,
Central Region (TN),
Chennai-620 001.
3. The Senior Superintendent of Post Offices,
Thiruchirappalli Division,
Thiruchirappalli-620 001. Petitioners

versus

1. V.Pitchaipillai
2. Central Administrative Tribunal,
Rep. by its Registrar,
Madras Bench,
Chennai-600 104. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of 2nd respondent and quash the order dated 4.1.2016 in O.A.No.561 of 2013 as the same is unsustainable.

For Petitioner : Mr. V.P.Sengottuvel, SCGSC

ORDER

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

This Writ Petition has been filed against the order passed by the Central Administrative Tribunal (in short, 'the Tribunal'), Madras Bench in O.A.No.561 of 2013, dated 04.01.2016 allowing the original application filed by the first respondent herein.

2. The first respondent/applicant has approached the Tribunal, seeking the following relief:

"To call for the records of the 1st respondent pertaining to his order which is made in No.STA/111/BCR/2011 dated 31.01.2013 and the orders of the 3rd respondent which are made in (1) B1/BCR/Dlgs dated 24.10.2011 and (2) B/BCR/Dlgs dated 16.2.2012 and set aside the same; and consequently

"to direct the respondents to grant the BCR benefits to the applicant with effect from July 2008 with all attendant benefits as per the Full Bench judgment made in Piran Ditta & 25 others versus Union of India which is reported in 2005 (1) ATJ 430."

2. For the sake of clarity, the parties are referred to as 'the applicant and 'the respondents' as narrated before the Tribunal.

3. The case of the applicant was that he entered the respondent department in Group D service on 28.2.1972 and promoted to the post of Postman with effect from 11.4.1980 and thereafter, as a Postal Assistant with effect from 19.6.1982. He became eligible for Biennial Cadre Review (BCR) promotion on completion of 26 years of service as on 19.6.2008. The respondents denied the benefit of BCR promotion to the applicant on the ground that his BCR promotion came to be due on 01.09.2008 by which date Modified Assured Career Progression Scheme (MACP) came into effect. The case of the respondents was that on introduction of MACP scheme, BCR upgradation was withdrawn and therefore, the question of grant of BCR promotion did not arise in the case of the applicant.

4. The learned Tribunal, after taking note of the submissions of the rival parties, allowed the Original Application, as the issue involved was squarely covered by the order of Tribunal passed in O.A.No.1309 of 2010 dated 9.3.2012 which was also confirmed by this Court in W.P.No.25672 of 2013

by order dated 24.09.2013. This factual position was also not disputed by the learned counsel who appeared for the respondents before the Tribunal. It was admitted case that the applicant had put in 26 years of service as on 19.6.2008, on which date, MACP Scheme was not in place because of the fact that the notification of MACP Scheme came on 19.5.2009 with retrospective effect from 1.9.2008. However, in view of the fact that the accrued benefit under the erstwhile scheme cannot be snatched away by bringing a subsequent scheme with retrospective effect, similar cases were decided in favour of the employees for grant of benefits available under erstwhile scheme. In fact, the learned Tribunal, while allowing the application, has also extracted an operative portion of the order passed by the Tribunal in one of its orders. The learned Tribunal, therefore, concluded that in view of the settled proposition of law, the order or rejection of the applicant's claim cannot be sustained and therefore, the same was set aside and the Original Application came to be allowed. As against the order passed in the Original Application, the present Writ Petition has been filed.

5. Shri V.P.Sengottuvel, learned standing Central Government senior counsel appearing for the respondents before the Tribunal, made a feeble attempt to convince this Court as to how the Tribunal's order is required to be interfered with. However, we are not able to persuade ourselves as to the case of the applicant can be viewed different from that of other similarly placed persons, who got the benefit of the orders passed by the Tribunal which was also confirmed by this Court. In such view of the matter, we do not find any prima facie case for admission of the Writ Petition. Therefore, we are of the view that the petitioner has not made out a case for admission. Accordingly, we do not see any infirmity in the order passed by the learned Tribunal.

6. Accordingly, the Writ Petition fails and it is dismissed as devoid of merits and substance. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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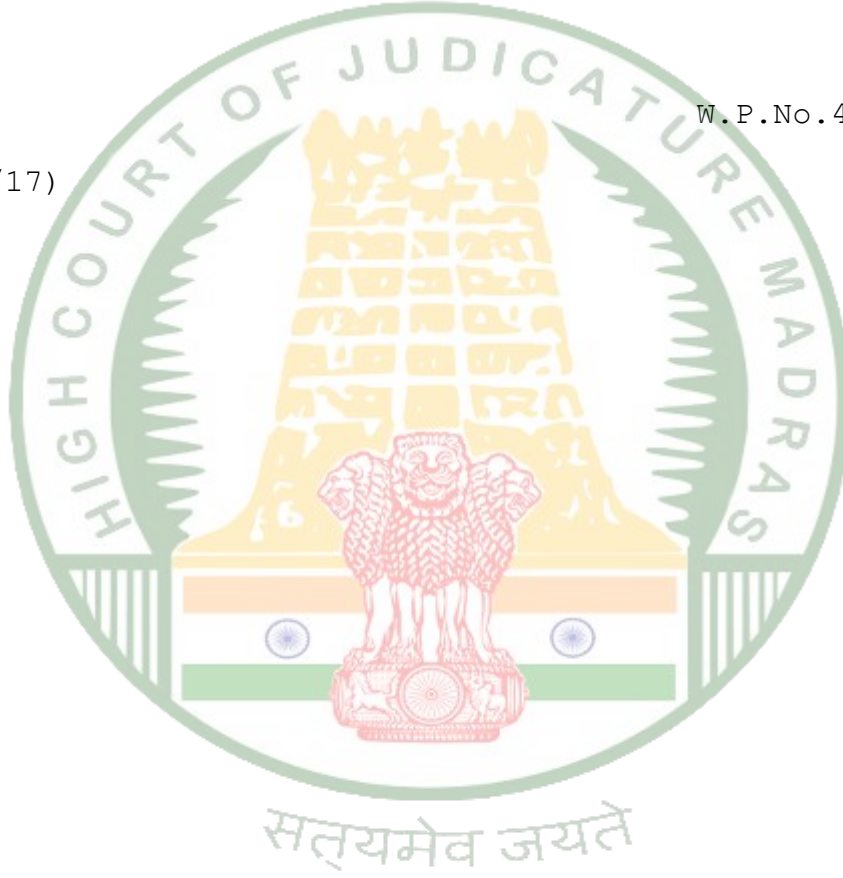
To

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

+1 cc to M/s.V.P. Senguttuvel, Advocate, sr 12851

rsk(co)
rmp(17/04/17)

W.P.No.4934 of 2017



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