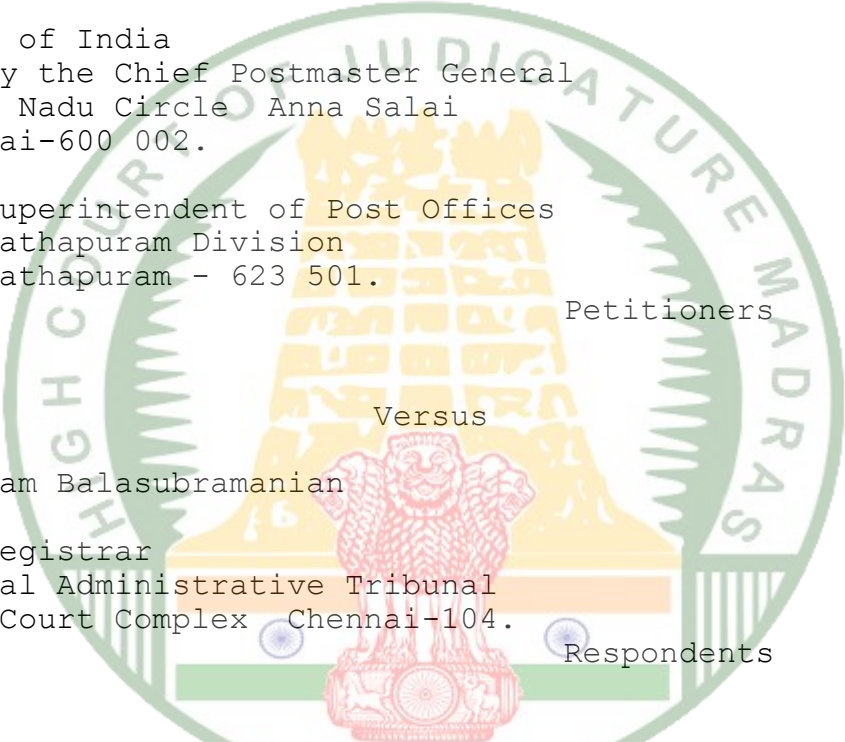


IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.10.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.43577 of 2016
and
W.M.P.No.37406 of 2016

- 
- 1 Union of India
Rep by the Chief Postmaster General
Tamil Nadu Circle Anna Salai
Chennai-600 002.
- 2 The Superintendent of Post Offices
Ramanathapuram Division
Ramanathapuram - 623 501.
- Petitioners
- Versus
- 1 Thangam Balasubramanian
- 2 The Registrar
Central Administrative Tribunal
High Court Complex Chennai-104.
- Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari Calling for the records relating to the order of the Central Administrative Tribunal, Madras Bench passed in OA No.1565 of 2013 dated 1.3.2016 and quash the same.

For petitioners : Mr.V.Balasubramanian, SPC
For R1 : Mr.R.Malaichamy

ORDER

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

Heard the learned counsel appearing for the parties.

2. It appears that due to some negligence on the part of the first respondent's husband, when he was working in the Postal Department, KVPs were issued in favour of the Hereditary Trustee of Ramnad Samasthanam Devasthanam on 2.11.1995, while as per the communication of the Director General, Department of Posts, New Delhi, investment by Institutions in Post Office Time Deposits, Kisan Vikas Patras and NSCs had been discontinued with effect from 1.4.1995, however, later, the said Trust was requested to close down the investments in the Post Office, without interest for such investment. However, the Trust had initiated proceedings before the Consumer Forum and succeeded in getting interest for their investment and the appeals filed by the Department were also dismissed by the State Commission. As a consequence, it appears that a sum of Rs.58,427/- was directed to be paid by the husband of the first respondent, towards his share for compensating the loss alleged to have occurred to the Department and later, it was recovered from his gratuity amount, after his retirement on 31.3.2008. Subsequently, he died on 24.4.2009. Later, the first respondent, wife of the deceased employee, had filed the Original Application before the Central Administrative Tribunal claiming refund of the amount recovered by the Department, contending that the amount was recovered from her husband under coercion at the verge of retirement or else he could not have retired peacefully. The Tribunal, appreciating the case of the first respondent herein, allowed the Original Application and directed the Department to refund the amount recovered with interest at 6% per annum, which is under challenge in the present writ petition at the instance of the Department.

3. The stand taken by the first respondent herein is that neither an enquiry was conducted nor any opportunity was given to her husband prior to the recovery made by the Department which is against the principles of natural justice and rather, the husband of the first respondent was forced to give consent for recovery of the amount from his gratuity as a price for peaceful retirement. The further contention of the first respondent is that there could have been no actual loss to the Government as the amount collected by the husband of the first respondent was invested in the Government account which could have carried interest.

4. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that no enquiry was conducted by the Department prior to making the recovery, even assuming that there is some negligence on the

part of the employee which is unknown to law. Further, it is also observed by the Tribunal that the Department could have mitigated the issue and avoided the payment of interest to the Trust instead of litigating before the appellate forum. We do not find any reason to interfere with the finding of the Tribunal with regard to refund of the amount recovered by the Tribunal.

5. However, since it appears that there is some lapse on part of the husband of the first respondent which, if at all, must be a bona fide mistake and it could only be treated as negligence or carelessness, while ordering refund of the amount recovered by the Department, we make it clear that it shall carry interest at 6% simple interest.

6. Modifying the order passed by the the Central Administrative Tribunal to the above extent, the writ appeal is allowed in part. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 Union of India
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 - 3 The Registrar
Central Administrative Tribunal
High Court Complex Chennai-104.
- +1 cc to M/s.R.Malaichamy Advocate sr 77558
+2 cc to M/s.V.Balasubramaniam Advocate sr 77089

W.P.No.43577 of 2016

mr(co)
aa05/12/2017