

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.44021 of 2016

and

W.M.P.No.37829 and 37830 of 2016

- 1.Union of India
rep.by the Postmaster General,
Southern Region,
Madurai-625 002.
- 2.The Superintendent of Post Offices,
Virudhunagar Division,
Virudhunagar-626 001. Petitioners

-vs-

- 1.K.Ramasamy
- 2.V.Vellaisamy (died)
- 3.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai-104.
- 4.Vijaya, w/o Late Vellaisamy
- 5.Usha, daughter of Vellaisamy
- 6.Kaliraj, son of Vellaisamy
- 7.Muneeswaran, son of Vellaisamy
- 8.Ravikumar, son of Vellaisamy

(R-4 to R-8 are substituted as legal heirs
of the deceased R-2, Mr.V.Vellaisamy as per
order dated 24.04.2017 in W.M.P.No.8142
of 2017 in W.P.No.44021/2016). ... Respondents

Petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Certiorari to call for the records in
O.A.No.411 of 2010 dated 21.04.2015 on the file of the Central
Administrative Tribunal, Madras Bench and to quash the same in so far
against the petitioners.

For Petitioners :: Mr.V.Balasubramanian

[illegible]

ORDER

(Order of the Court was made by

This writ petition has been filed challenging the order passed by the third respondent-Tribunal in O.A.No.411 of 2010 dated 21.04.2015.

2. The Senior Superintendent of Post Office, Virudhunagar, issued a memo dated 29.01.2010 selecting the second respondent-Vellaisamy for promotion to the cadre of postman on seniority basis for the vacancies approved under Annual Direct Recruitment Plan for the year 2006-07. The first respondent has challenged the said selection before the third respondent-Tribunal on the ground that the selection of the said Vellaisamy is not in accordance with the relevant Rules, as the first respondent's name finds place at Sl.No.119 in the seniority list, whereas the second respondent's name finds place at Sl.No.139. The selection was also challenged on the ground that the first respondent has not completed 55 years of age. The Tribunal has allowed the application and directed the authorities to promote the first respondent to the post of postman. Challenging the said order passed by the Tribunal, the present writ petition has been filed by the Department.

3. On the death of the second respondent, the respondents 4 to 8 have been impleaded as legal heirs of the second respondent. The learned counsel for the respondents 4 to 8 has relied upon the decision of the Hon'ble Supreme Court in Deepa E.V. v. Union of India & Ors., reported in 2017(2) All India Services Law Journal Page-251, and submitted that recruitment to the post in question has to be done only by way of direct recruitment and not by promotion.

4. The learned counsel for the first respondent has submitted that as per the seniority list, the first respondent is the senior and at the relevant point of time, the first respondent was 53 years old and hence the order passed by the Tribunal directing the authorities to promote the first respondent, does not warrant any interference.

5. The learned counsel for the petitioners/ Department, has contended that as per the rules prescribed, for direct recruitment, the age limit is 50 years and hence relaxation of the age to 55 years cannot be considered. He further submitted that the Department has taken into consideration the relevant Rules and all the necessary aspects and had given promotion to the second respondent.

6.We have heard the learned counsel on either side and perused the materials available on record.

7.It is seen that the second respondent-Vellaisamy died on 27.10.2011 itself. Since already promotion has been given by the Department to the second respondent and taking into consideration the fact that the second respondent died on 27.10.2011, he cannot be reverted back. In such view of the matter, the impugned order passed by the Tribunal is set aside. However, the first respondent shall be considered for promotion in the vacancy that arose due to the death of the second respondent-Vellaisamy, in accordance with law. We hereby clarify that the pensionary benefits being given to the legal heirs of the deceased-Vellaisamy, need not be reduced.

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

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KM

To

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

+1cc to Mr.R.Malaichamy , Advocate, S.R.No.76775
+1cc to Mr.V.Balasubramanian, Advocate, S.R.No.76877
+1cc to MR.P.Rajendran S.R.No.77311

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W.P.No.44021 of 2016
and
W.M.P.No.37829 and
37830 of 2016

MN(CO)
PMK.28/11/2017