

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.4.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10050 of 2018
and
W.M.P.No.12006 of 2018

Union of India, rep. by
The Principal Chief Personnel Officer,
Southern Railway, Park Town,
Chennai 600 003.

Petitioner

Versus

1. Smt.M.V.Prabhavathi
2. The Registrar,,
Central Administrative Tribunal,
Chennai Bench, Chennai 600 104.

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the 2nd respondent pertaining to O.A. No.310/ 01091 of 2014 and order passed thereon dated 20.12.2016 and quash the same.

For petitioner : Ms.T.P.Savitha
For R1 : Mr.L.Chandrakumar

ORDER

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

Heard the learned Standing Counsel appearing for the writ petitioner and Mr.L.Chandrakumar, learned counsel, who takes notice on behalf of the first respondent.

2. The writ petition has been filed by the Union of India challenging the order passed by the Central Administrative Tribunal directing the appellant to restore the 3rd Financial Upgradation already granted to the first respondent vide order dated 20.1.2010.

3. It appears that the first respondent herein was appointed as Clerk/Grade.I (Senior Clerk) in Southern Railway with a Scale of Pay of Rs.330-560 on 4.10.1982 and posted at Ponmalai, however, she was transferred to Madras on 11.3.1983 on her request and she was posted only as Clerk in the pay scale of Rs.260-400 on bottom seniority till finalisation of the writ proceedings in W.P.Nos.6751 to 6755 of 1982 filed by the Ministerial Staff Association. It further appears that subsequent to disposal of the above writ proceedings, the position of the first respondent herein was restored with the pay scale of Rs.330-560 and thereafter, she was granted two promotions, on as Personnel Inspector Grade III by order dated 27.12.1989 which was merged with Personnel Inspector Grade II with effect from 1.7.1992 and the second promotion as Personnel Inspector Grade I during 1998 and subsequently, she was granted third Financial Upgradation, however, it was withdrawn by order dated 1.11.2010 on the ground that it was erroneously sanctioned. The same was challenged before the Central Administrative Tribunal in O.A.No.1563 of 2010 which was allowed by Tribunal. The same was challenged by the Union of India in W.P.No.24332 of 2012. While disposing the said writ petition, a Division Bench has confirmed the order passed by the Tribunal by observing that the impugned order dealt with therein had been passed without giving an opportunity to the first respondent herein to have a say in the issue and therefore, liberty was given to the Union of India to proceed afresh by giving an opportunity to the first respondent herein to put forth her objections. Subsequent to that, the present order which was impugned before the Tribunal came to be passed.

4. On perusing the materials available on record, the Tribunal had given a clear finding that the first respondent herein, who joined in the higher post viz., Senior Clerk was transferred on her request, however, she was permitted to join only as Clerk with a lesser scale of pay due to the hindrance in posting her in the same capacity viz., Senior Clerk in view of the pendency of the proceedings and the order of stay prevalent at that time and therefore, her subsequent posting as Senior Clerk after disposal of such proceedings cannot be considered as Promotion and as a consequence, she became eligible for the third Financial Upgradation.

5. On going through the order passed by the Tribunal, we are of the view that there is no error committed by the Tribunal in analysing the factual position and rightly appreciated the original interpretation of granting third financial upgradation and quashed the impugned order which was passed on the basis of

re-interpretation and wrong presumption. Therefore, we do not find any scope for interference with the order passed by the Tribunal. The writ petition is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. Union of India, rep. by
The Principal Chief Personnel Officer,
Southern Railway, Park Town,
Chennai 600 003.
2. The Registrar,,
Central Administrative Tribunal,
Chennai Bench, Chennai 600 104.

+1cc to Mr.L.Chandrakumar, Advocate sr.no.30114

+1cc to Ms.T.P.Savitha, Advocate sr.no.29835

W.P.No.10050 of 2018

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nr 19/06/2018

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