

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.4432 of 2018
and W.M.P.No.5434 of 2018

M.Shankar ... Petitioner

vs

1.The Union of India,
rep. by its Engineer-in-Chief,
Branch MES Army Head Quarters,
New Delhi.

2.The Chief Engineer,
Military Engineer Services,
Southern Command,
Pune - 411 001.

3.The Chief Engineer,
MES Chennai Zone,
Island Ground,
Chennai.

4.The Garrison Engineer (Indep),
Panaji,
Goa - 103 001.

5.The Registrar,
Hon'ble Central Administrative Tribunal,
Chennai Bench,
High Court Campus,
Chennai - 600 104.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 5th respondent in M.A.No.310/00086/2015 and O.A.No.310/01774/2016, dated 01.11.2016 and to quash the same and consequently direct the respondents 1 to 4 to re-instate the

petitioner into service in the post of Supervisor Barrack Stores Grade-II with all consequential and other attendant benefits including arrears of salary with interest.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.Venkatasamy Babu
Sr. CGSC for R1 to R4

ORDER

(Order of the Court made by The Hon'ble Chief Justice)

This writ petition is preferred against the order dated 01.11.2016 passed by the Central Administrative Tribunal, Madras Bench, Chennai in M.A.310/00086/2015 and O.A.No.310/01774/2016 preferred by the petitioner. In the said O.A., the petitioner had prayed for setting aside the order of termination and to reinstate him into service. He had also preferred M.A.310/00086/2015 for condonation of the delay of 1585 days in preferring the said O.A.

2. We would like to state few facts. The facts are that the petitioner was appointed as Supervisor Barrack Stores Grade-II in the office of the Garrison Engineer (Indep), Panaji, Goa as per the order of the third respondent dated 11.8.1997 and he was placed under probation for a period of two years from the date of appointment. As per rules, directly recruited Supervisor Barrack and Stores Grade-II were required to clear the Store Keepers examination within the probation period. As the petitioner did not clear the said examination, he came to be terminated. The petitioner contended that there is no such condition stipulated for direct recruits.

3. The petitioner had earlier approached the Central Administrative Tribunal with a prayer to reinstate him with all benefits and allowances. It is seen that the petitioner had preferred O.A.No.841 of 2001, which came to be disposed of on 17.8.2001 directing the respondents therein to dispose of the appeal pending before the third respondent. The petitioner, then filed W.P.No.45126 of 2002 before the High Court of Madras, which came to be dismissed by an order dated 06.1.2003 with the following observation:

"The petitioner has not completed the conditions on which he was appointed and his termination from service was the only go left to his employment. The petition has no merits and it is dismissed."

4. Against the order of this High Court in W.P.No.45126 of 2002, the petitioner had approached the Hon'ble Supreme Court by

filing Special Leave Petition (Civil) No.6921 of 2003. The Special Leave Petition (Civil) No.6921 of 2003 came to be dismissed by an order dated 28.04.2003. Thereafter, for the very same relief, the petitioner had filed O.A.No.552 of 2005, which also came to be dismissed by a detailed order dated 28.6.2005. The operative portion of the order is as under:

"The applicant's probation was extended and he could not pass the departmental examination even within the extended period of probation. We cannot reopen the matter once again which was concluded against the applicant. For the above reasons, we are unable to grant the relief prayer for. The OA is dismissed."

Thus, the said order became final. Thereafter, the petitioner had preferred Diary No.2959 of 2007 before the Central Administrative Tribunal, Madras Bench. The said Diary No.2959 of 2007 came to be dismissed by the Central Administrative Tribunal, Madras Bench by an order dated 27.9.2007 holding that the petitioner having exhausted all remedies and the matter having been concluded, the contention of the petitioner that he is not required to pass the Store Keeper examination is unsustainable. It was also observed that the relief prayed for by the petitioner was hit by the principles of res-judicata.

5. Thereafter, again the petitioner had approached the Central Administrative Tribunal, Madras Bench by filing O.A.No.310/01774/2016. As there was a delay of 1585 days in preferring the said O.A., the petitioner had also preferred M.A.310/00086/2015 for condonation of the delay.

6. The learned counsel for the petitioner submitted that when the petitioner approached this Court by filing W.P.No.35351 of 2007, a Division Bench of this Court, in its order dated 28.8.2008, observed that though it has not interfering with the order of the Central Administrative Tribunal, the order will not stand in the way of the third respondent therein in considering the matter by referring to all the relevant facts and circumstances in accordance with law. The learned counsel for the petitioner further submitted that thereafter also the respondents have rejected the representation of the petitioner, hence, the petitioner had preferred the O.A. However, while preferring the O.A., there was a delay 1585 days. Hence, the petitioner had preferred M.A.No.310/00086/2015 for condonation of the delay and both O.A. and M.A. were dismissed by the Central Administrative Tribunal.

7. It is seen that against the order of termination, the petitioner had filed series of Original Applications and also approached this High Court as well as the Hon'ble Supreme Court

and the matter has been concluded and decided against the petitioner. The Central Administrative Tribunal has also observed that the petitioner cannot again come forward and pray for very same relief, which he had sought in the previous Original Applications. Thus, it is seen that the petitioner has been repeatedly approaching this Court and the Central Administrative Tribunal for the very same relief. This cannot be allowed. The Central Administrative Tribunal, Madras Bench has taken into consideration all these facts and has thereafter dismissed the O.A. as well as M.A.

8. In view of the above facts, we are of the opinion that the writ petition deserves to be dismissed and is accordingly dismissed. No costs. Consequently, W.M.P.No.5434 of 2018 is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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Chennai - 600 104.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.58268

+1cc to Mr.Venkataswamy, Advocate, S.R.No.58026

W.P.No.4432 of 2018

NRL(CO)

GSP(04/09/2018)