

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2018

CORAM

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

W.P.No.3544 of 2018
and W.M.P.No.4347 of 2018

- 1.The Union of India represented by
The General Manager,
Southern Railway, Park Town,
Chennai-600 003.
- 2.The Assistant Personnel Manager,
The Divisional Railway Manager's Office,
Personnel Branch, Chennai Division,
Chennai-600 003. Petitioners

-vs-

- 1.The Registrar,
Central Administrative Tribunal, Madras Bench,
Chennai-600 104.
- 2.P.Sambasiva Rao
- 3.R.Kannabiran
- 4.Shaik Meeran Shariff
- 5.P.Ashok Kumar
- 6.N.Harikrishnan
- 7.A.Basilraj Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records of the impugned order dated 05.07.2016 made in O.A.No.1052 of 2014 on the file of the first respondent herein and quash the same.

For Petitioners :: Mr.C.V.Ramachandramurthy
For Respondents :: Mr.V.Raghavachari for R2 to R7
 R1-Tribunal

ORDER

(Made by HULUVADI G.RAMESH, J.)

The respondents 2 to 7 herein are basically Railway Loco Pilots. They were deputed to work as Junior and Senior Instructors respectively. The nature of the job was to instruct the trainees in driving the railway engines during the year 2003 without specifying any time limit. They were paid the salary of Loco Pilots plus Training Allowance. However, after the advent of the VI Central Pay Commission, they were continued to pay on par with the salary of the Loco Pilots plus Training Allowance. Thereafter, the Department decided to treat as though they should be paid under the VI CPC only the pay scale attached to the post of Instructors and hence a recovery order has been passed recovering the alleged excess paid to them. Hence, they filed an application before the Central Administrative Tribunal, Madras Bench in O.A.No.1052 of 2014 to declare the proceedings issued by the Department dated 25.03.2014 as null and void and for a direction to give fair opportunity of hearing to the respondents 2 to 7. The Tribunal, after considering the facts and circumstances of the case, disposed of the original application ordering that there shall not be any recovery of the alleged excess amount paid to the respondents 2 to 7 and the second respondent / first applicant, was given liberty to make a representation to the authorities and the authorities were directed to consider it on par with the view taken in respect of the respondents 3 to 7 herein, by order dated 05.07.2016.

2.Challenging the order passed in the original application, the present writ petition has been filed by the Department.

3.Heard the learned counsel on either side and perused the materials available on record.

4.It is the stand of the Department that the recovery order is in accordance with law, as the Divisional Finance Manager, Madras has certified the over payment involved in the case of the second respondent herein. But, according to the learned counsel for the respondents 2 to 7, the order passed by the Tribunal does not require any interference.

5.Considering the facts and circumstances of the case, we are of the considered opinion that it is for the Department to

consider the case of the second respondent herein and pass appropriate orders based upon the law laid down by the Hon'ble Supreme Court in the case of State of Punjab and others v. Rafiq Masih (White Washer) etc. in C.A.No.11527 of 2014 dated 18.12.2014, in response to their representation which was directed to be submitted by the Tribunal in its order.

6.With the above observation, the writ petition is disposed of. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KM
To

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

+1cc to Mr.V.Raghavachari, Advocate Sr.52543

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srg 14/08/2018

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