

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.972 of 2018 and

W.M.P.No.1160 of 2018

- 1.Union of India
rep by the Chief Postmaster General,
Tamil Nadu Circle, Chennai - 600 002.
 - 2.Union of India
rep by the Postmaster Generalities,
Southern Region (Tamil Nadu),
Madurai - 625 001.
 - 3.Union of India
rep by Senior Superintendent of Post Offices,
Kanyakumari Division,
Nagercoil - 629 001.
 - 4.Sub Postmaster,
Kottar Sub Office,
Kottar, Nagercoil - 629 002,
Kanyakumari District.
- .. Petitioners

Vs.

- 1.The Central Administrative Tribunal,
rep by its Registrar,
Madras Bench, Chennai - 600 104.

- 2.M.Bindu ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari calling for the records of the 1st respondent and quash the order passed by the 1st respondent in O.A.No.1462 of 2015 vide order dated 02.08.2016.

For Petitioners : Mr.C.V.Ramachandra Murthy
For Respondents : Mr.P.Ganesan
for M/s.C.S.Associates (R2)
R1 - Tribunal

O R D E R

(Order of the Court made by M.DURAI SWAMY, J.)

The petitioners have filed the above Writ Petition to issue a Writ of certiorari to call for the records in O.A.No.1462 of 2015 dated 02.08.2016 on the file of the 1st respondent and to quash the same.

2.It is the case of the 2nd respondent that she was engaged in the leave vacancy as Branch Postmaster at Irulappapuram, Kaniyakumari District on 01.11.2004 and she continued upto 10.11.2005. Thereafter, she was appointed during various periods with breaks in between from 27.12.2004 to 15.09.2005 as Branch Postmaster or Stamp Vendor. She was engaged in the leave vacancy of Shri S.Muthukumar, regular Gramin Dak Sevak Stamp Vendor, Kottar SO as his leave substitute to carry out the work of Gramin Dak Sevak Stamp Vendor, Kottar SO on his own responsibility. The post is kept under skeleton after verifying statistics and is due for redeployment elsewhere. Hence, the engagement of the 2nd respondent was not able to be continued by the main incumbent Shri S.Muthukumar.

3.Further, the 2nd respondent's contention was that she was continuously appointed from 10.03.2006 in various places. While so, she was stopped orally on 05.07.2012 without any order of relieving or termination. Therefore, she made a representation on 10.07.2012 to the respondents seeking to allow her to join duty or to give relieving order. In her representation, she sought for confirmation of her service. But the respondents terminated her service orally. Therefore, the 2nd respondent filed O.A.No.960 of 2012 before the Central Administrative Tribunal, which by its order dated 17.10.2014, disposed of the same with a direction to the petitioners to consider absorption of the 2nd respondent by taking into consideration the continuous service rendered by her from 2006 in the regular vacancy.

4.But however, the 3rd petitioner, by his impugned order dated 10.09.2015, rejected the claim of the 2nd respondent and hence, she filed O.A.No.1462 of 2015 before the Central Administrative Tribunal. The Central Administrative Tribunal, by order dated 02.08.2016, disposed of the O.A. by directing the petitioners to immediately engage the 2nd respondent on temporary basis as GDS MD Azhagamparai BO and GDS PKR, Palliyadi SO as

mentioned in her earlier application as per rules. Further, the Tribunal observed that in the event of arising of regular vacancy, the case of the 2nd respondent may be considered sympathetically taking into consideration the previous service rendered by her, if necessary, by giving age relaxation.

5.The contention of the 2nd respondent was that even though she was stated to have been working since 2004 in the leave vacancies, which contention was not denied by the petitioners, the Tribunal has rightly come to the conclusion that she was working since 2004 in the leave vacancies. Though on the earlier occasion, the Tribunal directed the petitioners to consider the case of the 2nd respondent by taking into consideration the continuous service rendered by her from 2006, the petitioners have erroneously rejected her claim. The Tribunal, while disposing of the present O.A., also deprecated the petitioners for not obeying the orders of the Tribunal. Since the Tribunal already gave a direction to the petitioners to consider the claim of the 2nd respondent apart from the fact that she was working since 2004 in the leave vacancies, the direction given by the Tribunal to the petitioners to immediately engage the 2nd respondent on temporary basis, is just and proper.

6.That apart, with regard to the regular vacancies, the Tribunal had only observed that the case of the 2nd respondent may be considered sympathetically by taking into consideration the previous service rendered by her. Therefore, the Tribunal has not given any positive direction to the petitioners with regard to the regular vacancies.

7.In these circumstances, we do not find any ground to interfere with the order passed by the Central Administrative Tribunal. The Writ Petition is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

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

+lcc to Mr.C.S.Associates, Advocate, S.R.No.60745

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GSP(12/09/2018)



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