

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.7.2018

CORAM

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

W.P.No.3908 of 2018
and
W.M.P.No.4806 of 2018

D.Madubala Mohandoss

Petitioner

Versus

- 1 Union of India rep by its
Chief Postmaster General
Tamilnadu Circle
Anna Salai Chennai 600 002
- 2 Postmaster General
Southern Region (TN) Madurai 625 002
- 3 Senior Superintendent of Post Offices
Kovilpatti Division
Kovilpatti 628 501
- 4 The Central Administrative Tribunal
Chennai 600 104
Rep. by the Registrar

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the 4th respondent Tribunal which is made in O.A. No.1032 of 2013 dated 22.09.2015 and quash the same and thereby further direct the respondents to grant pension and arrears of pension to the petitioner.

For petitioner : Mr.R.Malaichamy
For RR1 to 3 : Mr.B.Rabu Manohar

ORDER

(Order of the court was made by M.DHANDAPANI,J.)

The writ petition has been filed seeking challenging the order of dismissal dated 22.9.2015 passed by the Central Administrative Tribunal.

2. The case of the petitioner before the Tribunal was that the petitioner was an Ex-Serviceman and after serving for about 5 years, he got discharged from service on 31.8.1988 and thereafter, he came to be appointed as postal Assistant under Ex-serviceman quota in the Postal Department and there he served for about 9 years 7 months and 27 days and thereafter, he submitted his resignation letter on 26.12.2011 which was also accepted by way of proceedings dated 9.2.2012 of the Senior Superintendent of Post Offices, Kovilpatti Division. It appears that thereafter, the petitioner had submitted a representation seeking terminal benefits and the same rejected on 22.4.2013 and hence, he had come up with the Original Application.

3. The issue raised in this writ petition is whether the petitioner is entitled to get pension after submitting resignation and without completing 10 years of service.

4. Having heard the learned counsel appearing for the parties and perused the counter filed by the respondents, we find that the claim of the petitioner cannot be entertained on two grounds, one being that he had submitted his resignation seeking to accept the same as per Rule 26 of CCS (Pension) Rules, 1972 as under such provision, resignation from a service entails forfeiture of past service and the other ground being that he has not completed 10 years of qualifying service as per Rule 49 of CCS (Pension) Rules.

5. At this juncture, the learned counsel appearing for the petitioner relied upon the decision of the Supreme Court in Civil Appeal No.6013 of 2011 to contend that in the said case, the resignation was construed as retired from service and the employee was entitled to get payment of gratuity.

6. In the case cited by the learned counsel appearing for the appellant, the employee had put in 20 years and 8 months service. But, in the case on hand, the petitioner has not even put in the 10 years of qualifying service and the worst being that he had submitted his resignation in clear terms seeking to accept the same under Rule 26 of the CCS (Pension) Rules, 1972.

7. In such view of the matter, we do not find any merit in the writ petition and accordingly, it is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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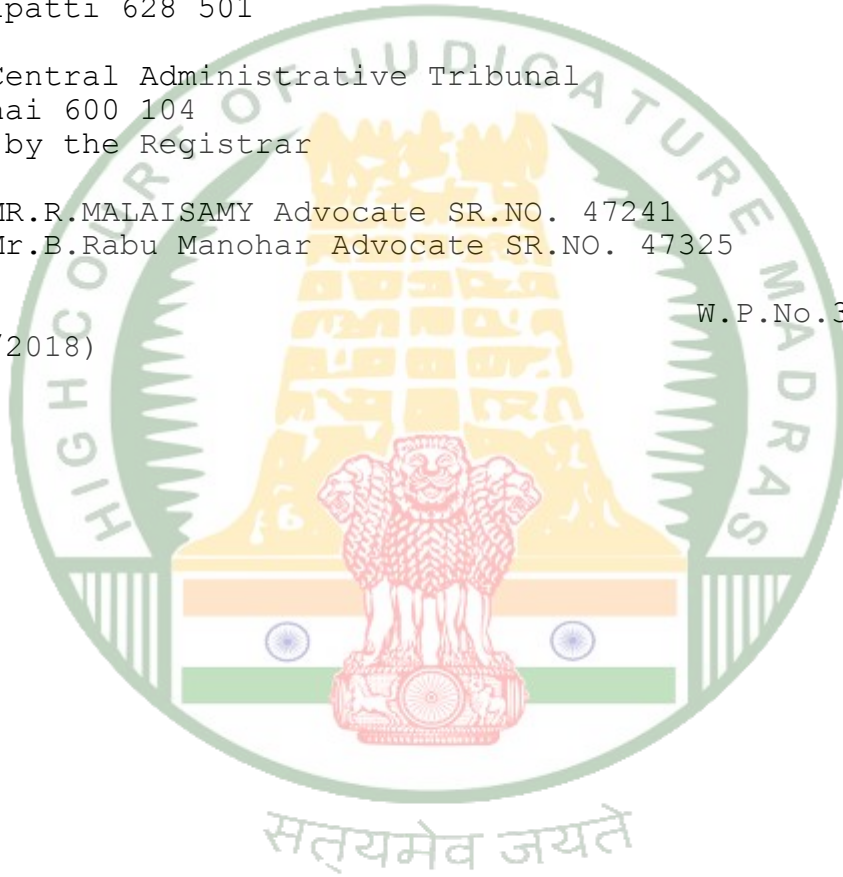
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+1 cc to MR.R.MALAISAMY Advocate SR.NO. 47241

+1 CC TO Mr.B.Rabu Manohar Advocate SR.NO. 47325

W.P.No.3908 of 2018

ASK(24/08/2018)



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