

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 24351 of 2016
and
W.M.P. No. 20827 of 2016

1. Union of India
Rep. By the Postmaster General,
Govt. of Puducherry.
2. The Senior Superintendent of Post Offices,
Pondicherry Division,
Pondicherry - 605 001. ... Petitioners

Vs.

1. N. Saminathan
2. The Central Administrative Tribunal,
Rep. By its Registrar,
Madras Bench, Chennai - 104. ... Respondents

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records on the file of the 2nd respondent in connection with the order passed by him in O.A.No. 921 of 2012 order dated 03.06.2014 and quash the same by dismissing the Original Application filed by the 1st respondent herein.

For Petitioners : Mr.L.J. Vengatesh
For Respondents : Mr. C. Prakasam for R1

O R D E R

(Order of the Court was made by M.M.SUNDRESH, J.)

The first respondent approached the Tribunal challenging the order passed by the second petitioner rejecting his request for

payment of pension. The Tribunal directed the petitioners to consider whether by adding the period between the date of vacancy and the date of appointment/joining, the qualifying service of the first respondent aggregates to 10 years or more. For sake of clarity, we have extracted the operative portion of the order of the Tribunal:-

"16. However, in two other OAs decided recently by this Bench, viz OA Nos. 863 of 2012 and 1172 of 2012, the Tribunal held that in case there was a vacancy in Group D to accommodate the employee with reference to the eligibility, and there was administrative delay in the processing of the case, and if by adding notionally the time period between the date of vacancy and the date of appointment/joining of the Applicant, the qualifying service aggregated to 10 years (9 years and 9 months) or more, the Applicant ought to be granted pension. On the same basis, the Respondents are directed to check in the instant case whether by adding the period between the date of vacancy and the date of appointment/joining, the qualifying service aggregates to 10 years (or 9 years and 9 months) or more. In such contingency, the Applicant should be granted pension. The Respondents are directed to take necessary action accordingly and complete the exercise within a period of 3 months from the date of receipt/communication of a copy of this order."

Challenging the aforesaid order, the present writ petition has been filed.

2. Learned counsel appearing for the petitioners submitted that the Tribunal cannot pass such a direction. The administrative delay per se cannot be a right to include the period for the purpose of reckoning the services rendered. It is the second submission of the counsel that even assuming it is taken into consideration, the first respondent would not be getting 10 years.

3. In view of the above said submission, we are not willing to go into the merits of the case. Prima facie, we are in agreement with the submissions made. If even by complying with the order of the Tribunal, the first respondent will not be qualified, there is no need to challenge it. Therefore, leaving the issue open with respect to the first submission made, we

direct the petitioners to comply with the direction of the Tribunal. Appropriate orders will have to be passed within a period of 8 weeks from the date of receipt of a copy of this order. As and when such an order is passed, it is open to the first respondent to approach the forum in the manner known to law. If the aforesaid challenge is made, the Tribunal will have to consider it notwithstanding the earlier findings rendered with respect to the consideration of administrative delay leading to adding notionally the time period between the date of vacancy and the date of appointment/joining.

This writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssm

To

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

+2 cc to M/s.L.J.Vengatesh, Advocate SR.No.87721

+1 cc to M/s.C.Prakasam, Advocate SR.No.88167

W.P. No. 24351 of 2016

RR(CO)

CSL/01.02.2019

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