

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

CORAM

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

W.P.No.17899 of 2016
and W.M.P.No.15598 of 2016

Union of India
rep.by Sr.Superintendent of Post Offices
Chennai City North Division
Chennai-600 008. Petitioner

-vs-

1.R.Senthil Kumar
2.N.Muthu Kumar
3.S.Venkatesan
4.K.V.Lalitha
5.The Central Administrative Tribunal,
rep.by its Registrar,
Madras Bench,
Chennai-600 104. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records of the fifth respondent dated 17.02.2016 made in O.A.No.310/00158/2015 and quash the same.

For Petitioner :: Mr.V.P.Sengottuvel

For Respondents :: Mr.M.Lakshmi Narasimhan
for R1 to R4

ORDER
(Made by M.DHANDAPANI, J.)

The respondents 1 to 4 herein were appointed on compassionate ground on various dates and their services were regularised. The regularisation was made not from the date of their initial appointment, but from a later date. Hence, they filed an application before the fifth respondent Tribunal in O.A.No.854 of 2011 seeking a direction to regularise their

services with effect from the date of their initial appointment, relying upon the case of the similarly situated persons, who were respondents in W.P.Nos.38990 of 2002 etc.batch. The said original application was allowed with a direction to the authorities to regularise their services with effect from the date of their initial appointment, but without any arrears of pay. A writ petition filed against the said order was also dismissed by this Court. Hence, the authorities issued an order dated 14.07.2014 regularising the services of the respondents 1 to 4 herein with effect from the date of their initial appointment, but it was stated that they were not entitled for payment of arrears on account of such regularisation, but protecting their pay and pensionary benefits. Accordingly, their pay fixation was made from the month of July 2014.

2.Hence, the respondents 1 to 4 herein, filed an application before the Tribunal in O.A.No.310/00158/2015 praying for a direction for payment of arrears from 20.03.2013, the date on which the Tribunal passed the order in O.A.No.854 of 2011 in respect of similarly situated persons, and the same was allowed by the Tribunal by passing the impugned order dated 17.02.2016.

3.Challenging the said order, the present writ petition has been filed by the Department.

4.It is submitted by the learned counsel for the petitioner-Department that based on the decision of the Hon'ble Supreme Court, order was passed by the Tribunal in O.A.No.854 of 2011 and based on the same, orders for regularisation of the service of the respondents 1 to 4 were issued vide Memo No.REP/47-3/2010 dated 30.08.2010 and 08.03.2011. He further submitted that it has been stated in the memo that their pay and allowances will be fixed notionally from the date of initial engagement as noted against each candidate and that their pay and pensionary benefits will be protected as per the orders of the Hon'ble Supreme Court. He further submitted that since it has been clearly stated in the order that they are not entitled for payment of any arrears on account of such regularisation, based on the order passed in O.A.No.854 of 2011 relying upon the judgment of the Hon'ble Supreme Court in the case of Director General of Posts & Ors. v. K.Chandrashekar Rao and Ors., reported in 2013(1) SLR 721 (SC), the impugned order passed by the Tribunal directing payment of arrears on this count, is not sustainable.

5.The learned counsel for the respondents 1 to 4 has submitted that the Tribunal has considered the matter in proper perspective and has passed the impugned order, which does not require any interference in the hands of this Court.

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

7.The order of the Tribunal in O.A.No.854 of 2011 dated 20.03.2013 made it clear that the case of the respondents 1 to 4 herein is squarely covered by the decision of the Hon'ble Supreme Court in the case of Director General of Posts & Ors. v. K.Chandrashekar Rao and Ors., reported in 2013(1) SLR 721 (SC) and accordingly it was held that the respondents 1 to 4 herein are entitled for the relief of regularisation from the date of appointment but not entitled for payment of any arrears on account of such regularisation, but their pay and pensionary benefits would be protected. Contrary to the above order, the respondents 1 to 4 filed the present O.A., claiming arrears from the date on which the Tribunal passed the order in O.A.No.854 of 2011, ie., 20.03.2013, till the date of regularisation, which is not sustainable. We do not find any error or infirmity in the order passed by the Tribunal in O.A.No.854 of 2011 dated 20.03.2013.

8.In view of the above stated circumstances, the writ petition is allowed and the impugned order passed by the Tribunal in O.A.No.310/00158/2015 dated 17.02.2016 is set aside. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KM

To

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

+1cc to Mr.P.Rajendran, Advocate in sr.no.42440

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SPD(CO)
CS/24/07/18