

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.P.No.16525 of 2017 and WMP.No.17887/2017

1. Union of India
rep. by the Chief Postmaster General,
Tamil Nadu Circle,
Chennai-2.
 2. The Post Master General,
Southern Region (TN),
Madurai-625 002.
 3. Senior Superintendent of Post Offices,
Tuticorin Division,
Tuticorin-628 008. Petitioners
- Vs
1. V.Viji
 2. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai-104. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records of the 2nd respondent and quash the order dated 01.06.2016 made in O.A.No.669/2015 as the same is unsustainable.

For Petitioners :: Mr.V.P.Sengottuvel
For Respondents ::

ORDER

(Order of the Court was made by HULUVADI G.RAMESH, J.)

Challenging the order of the 2nd respondent passed in O.A.No.669/2015 dated 01.06.2016, the present Writ Petition came to be filed.

2. The Original Application was filed seeking the following reliefs:

'to call for the records relating to the impugned order of the first respondent issued in No.REP/34-28/2012 dated .. at Chennai 600 002 the 31.10.2013 and the consequential order issued in No.REP/34-28/2012 dated at Chennai 600 002 the 09.09.2014 and quash the same and direct the respondents to appoint the applicant on compassionate grounds in any suitable job commensurate with her qualification and grant her all attendant benefits.'

3. The father of the applicant/1st respondent herein, namely, K.Vembadimuthu died in harness in the year 1996 as Postman under the respondent department and after his demise, his wife Viji has given a petition seeking compassionate appointment, but her claim was rejected stating that appointment on compassionate ground should be made only on regular basis and that too, only if regular vacancies meant for that purpose are available and compassionate appointments can be made upto a maximum of 5% of vacancies falling under direct recruitment quot in any Group 'C' or 'D' post. However, She was given employment on daily wages basis as Group 'D' employee till 2011, so as to say, till the date of her death. Thereafter, the applicant therein/1st respondent herein, being the daughter of the deceased K.Vembadimuthu applied for compassionate appointment and the same was rejected by the respondent authorities vide order dated 31.10.2013. Aggrieved over the same, the applicant has filed the Original Application.

4. After hearing the rival submissions made on either side, the Central Administrative Tribunal, by order dated 01.06.2016 disposed of the said Original Application thereby directing the respondent authority to reconsider the claim of the applicant and pass a speaking order after placing the matter before the ensuing Circle Relaxation Committee and communicate the result to the applicant. Aggrieved over the same, the present Writ Petition has been filed by the department.

5. The matter is listed today under the caption, 'for admission'. We have heard the learned Counsel appearing for the petitioners. We have perused the materials available on record including the order of the Central Administrative Tribunal.

6. At the outset, it is relevant to extract paragraph 6 of the impugned order here under:

'6. Be that as it may, as of now, the point to be decided is as to whether the department considered the candidature of the applicant based on the then existing scheme which prevailed as on the date of the death of K.Vembadimuthu as per the decision of the Hon'ble Apex Court in Canara Bank & Another vs. M.Mahesh Kumar & Ors in Civil Appeal Nos.260, 266 and 267 of 2008 dated 15.05.2005. Exfacie and prima facie, it is clear that the impugned order does not refer to the old scheme. As such, I am of the view that this matter could be disposed of by giving the following direction to the respondent authority. As per the decision of the Hon'ble Apex Court cited supra, the candidature of the applicant has to be considered for grant of compassionate appointment as per the then existing scheme which prevailed as on the date of the death of the applicant's father K.Vembadimuthu:

'Accordingly, the respondent authority is directed to reconsider the claim of the applicant and pass a speaking order after placing the matter before the ensuing Circle Relaxation Committee and communicate the result to the applicant.'''

A perusal of the above would go to show that what is being stated by the learned Tribunal is to reconsider the claim of the 1st respondent herein in accordance with the scheme that was existing at the time of demise of the 1st respondent's father K.Vembadimuthu and then pass a speaking order in accordance with law after placing the matter before the ensuing Circle Relaxation Committee and communicate the result to the 1st respondent herein which does not require any interference at the hands of this Court. Therefore, the competent authority of the petitioners herein has to apply his mind in respect of the claim of the 1st respondent and then dispose of the same as per law. Thereafter, the aggrieved parties, either the Government or the 1st respondent, can approach this Court challenging the correctness of the said order. But without considering the claim of the 1st respondent herein and passing any orders, the petitioner Department has straight away approached this Court, which is a premature one.

7. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

tsi

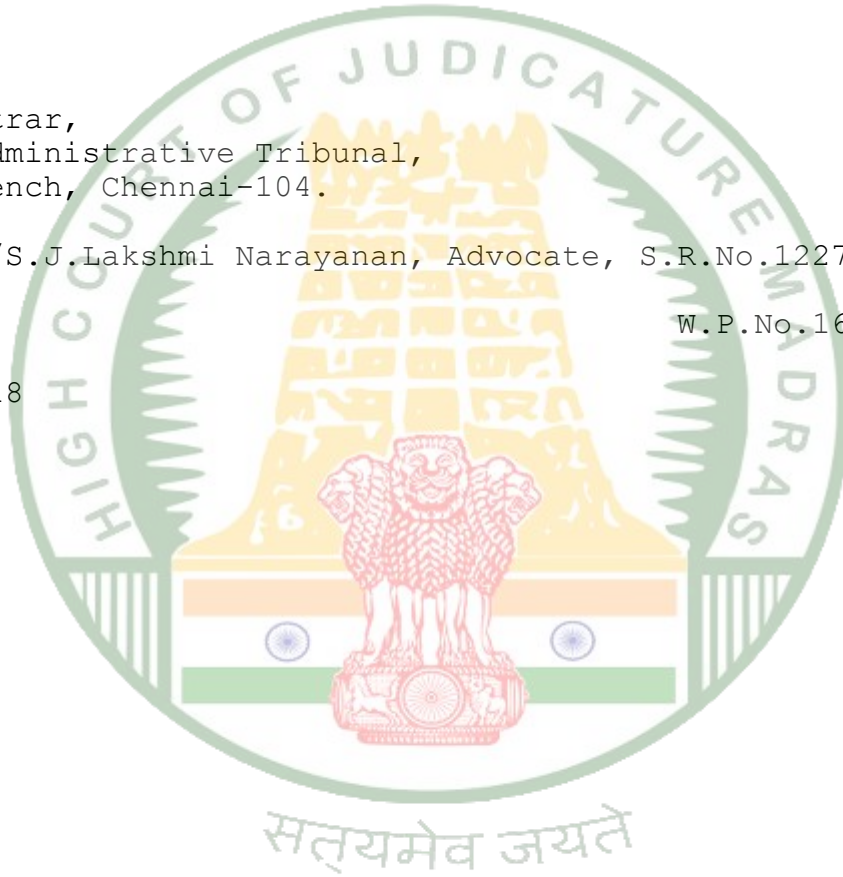
To

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

+1cc to M/S.J.Lakshmi Narayanan, Advocate, S.R.No.12271

W.P.No.16525 of 2017

CS/26/03/18



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