

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.7.2018

CORAM

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

Writ Appeal No.2551 of 2012

1. The Executive Officer
Prasar Bharathi
PTI Building, Second Floor
Sansad Marg
New Delhi 110 001.
 2. The Deputy Director General (Southern Region)
All India Radio
Kamarajar Salai, Mylapore
Chennai 600 004.
 3. The Director of Sales
Central Sales Unit
All India Radio
Broadcasting House
Backbay Reclamation
Mumbai 400 020. ... Appellants
- Vs.
- R.Sathasivan ... Respondent

Appeal filed under Clause 15 of Letters Patent against the order dated 18.01.2011 made in W.P.No.26226 of 2009 praying calling for the records of the 3rd respondent in the rate of advertisement wherein they are discriminating fixed 10% as casual commercial Canvasser under clause 5 of the chapter as against 15% fixed and credited in favour of the Accredited Agencies in Para 1 of the Rate card of AIR and Quash the same.

For Appellants : Mr.G.Rajagopalan
Addl. Solicitor General
Assisted by
Mr.A.Kumaraguru, CGSC

For Respondent : Mr.T.C.Gopalakrishnan

J U D G M E N T
(Delivered by Hluvadi G.Ramesh,J)

This writ appeal is directed against the order dated 18.01.2011 made in W.P.No.26226 of 2009.

2. Heard Mr.G.Rajagopalan, learned Additional Solicitor General appearing for the appellants and Mr.T.C.Gopalakrishnan, learned counsel appearing for the respondent.

3. The respondent was appointed as a Casual Commercial Canvasser for All India Radio, Coimbatore, for placing a minimum business of Rs.1,00,000/- per year, failing which, he would be automatically discontinued and that he would be given commission of 10% on the business brought by him. Contending that Accredited Agencies are given 15% commission, apart from incentives depending on the turnover of business, while the Casual Commercial Canvassers are given only 10%, the respondent has filed the writ petition seeking to quash the fixation of commission at different rates for the Accredited Agencies and for the Casual Commercial Canvassers and for a direction to pay him commission on par with Accredited Agencies and also the incentive.

4. It appears that the appellants have not been represented before the learned single Judge nor counter affidavit has been filed. Therefore, taking note of the arguments made on behalf of the respondent, the learned single Judge allowed the writ petition directing the appellants to pay commission and incentive to the respondent on par with Accredited Agencies. Aggrieved by the same, the appellants have come up with the above appeal.

5. A perusal of proceedings dated 19.3.2004, namely enrolment of the respondent as Casual Commercial Canvasser by the Station Director, All India Radio, Coimbatore, makes it clear that the respondent has been enrolled on a contractual basis and that the respondent is eligible for commission at the rate of 10% on the business brought by him. The respondent having entered into a contract, is entitled only for 10% commission as stated in the proceedings dated 19.3.2004 and not 15% commission which was fixed for Accredited Agencies, as observed by the learned single. Accordingly, the respondent cannot now claim for more percentage of commission on par with the Accredited Agencies.

6. In view of the above, the order of the learned single Judge is set aside and the writ appeal is allowed. However, there shall be no order as to costs. Consequently, M.P.No.1 of 2012 is closed.

-s/d-
Deputy Registrar

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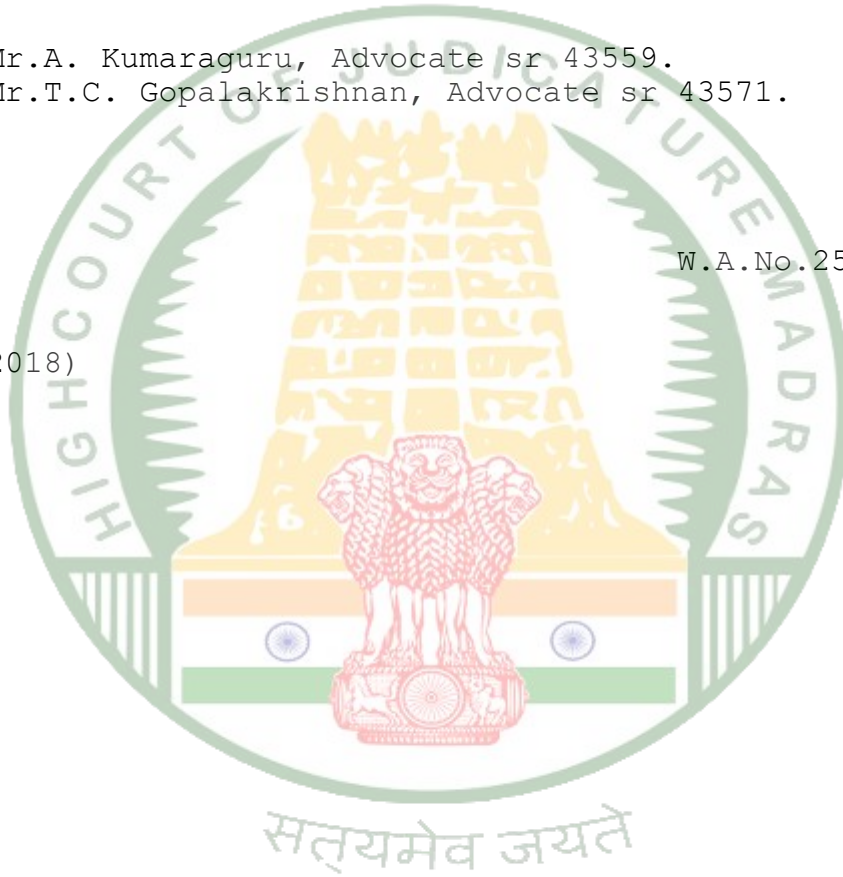
Sub-Assistant Registrar

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+1 CC to Mr.A. Kumaraguru, Advocate sr 43559.
+1 CC to Mr.T.C. Gopalakrishnan, Advocate sr 43571.

W.A.No.2551 of 2012.

SP(19/07/2018)



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