

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.P.No.1542 of 2018 and WMP.No.1951/2018

1. Union of India
rep. by the Chief Postmaster General,
Tamil Nadu Circle,
Chennai-2.
 2. Senior Superintendent of Post Offices,
Kanniyakumari Division,
Nagercoil-629 001.
 3. Postmaster (HSG-I),
Thuckalay HO-629 175,
Kanniyakumari Division. Petitioners
- Vs

1. M.Syed Ali
2. The Registrar,
Central Administrative Tribunal,
High Court Complex, 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 dated 14.9.2016 made in O.A.No.310/01626/2015 on the file of the Central Administrative Tribunal, Chennai Bench and quash the same in so far it is against the petitioners.

For Petitioners :: Mr.V.Balasubramanian
For Respondents ::

ORDER

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

Challenging the order of the 1st respondent passed in O.A.No.310/01626/2015 dated 14.9.2016, the present Writ Petition came to be filed.

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

'to call for the records and files relating to the impugned letter/order No.B1/NB/49/PF dig dated at Nagercoil-629 001 the 20.10.2014 issued by the 2nd respondent and the order No.H/GDS Pkr/Digs dated at Thukalay 629 175 dated 23.10.2014 issued by the 3rd respondent terminating the services of the applicant as being arbitrary, illegal and unjustified and consequently, direct the respondents to reinstate the applicant in service with continuity of service with all monetary benefits, and pass such other order or direction as this Tribunal may deem fit and proper in the circumstances of the case and award costs and thus render justice.'

3. The applicant/1st respondent herein was initially appointed as a PTC Gardener in the Office of the 3rd respondent by order dated 29.8.2000. After continuously working as a Gardener for about 12 years, he was provisionally selected for the post of GDS Packer by Communication dated 15.5.2012 followed by an order of appointment dated 07.01.2013 of the 3rd respondent therein and appointed to the said post on 16.05.2012. However, his order of appointment was terminated by order of the 2nd respondent therein dated 23.10.2014. Hence, the Original Application was filed.

4. A reply statement was filed by the respondents/petitioners herein refuting the allegations of the applicant stating that the applicant was never appointed as a full time casual laborer in the respondent's office. He had been working only against the leave vacancies from time to time on part time basis. Therefore, he had not acquired any right of appointment to the post of GDS Packer. Hence, prayed for dismissal of the Original Application.

5. After hearing the rival submissions made on either side, the Central Administrative Tribunal, by order dated 14.09.2016 allowed the said Original Application thereby quashing the impugned orders dated 20.10.2014 and 23.10.2014 and also directing the respondents therein to reinstate the applicant on the post of GDS Packer forthwith. Aggrieved over the same, the present Writ Petition has been filed by the department.

6. The matter is listed today under the caption, 'for admission'. We have heard the learned Counsel appearing for the petitioners.

7. In this Writ Petition, though so many grounds have been raised by the petitioners attacking the order of the 2nd

respondent herein, the learned Counsel for the petitioners relying on Rule 8 of the GDS (C&E) Rules, 2011 submitted that de hors seniority and qualification, the 1st respondent has been appointed as GDS Packer by the 3rd petitioner herein and subsequently, his service was terminated by an order of the 2nd respondent dated 23.10.2014 stating that selection was made in contravention to the existing Recruitment Rules for GDS and it was not based on merit in the SSLC Exam, along with one month's time related continuity allowance plus dearness allowance as admissible in lieu of notice of one month. However, the Central Administrative Tribunal has held that this is a clear case of violation of the principles of natural justice and no notice has been issued against the applicant/1st respondent herein to show cause against the proposed action of termination of his service as GDS Packer and ordered to reinstate the applicant therein on the post of GDS Packer forthwith with consequential monetary benefits, as if, he had not been terminated from service.

8. Considered the above said submissions of the learned Counsel for the petitioners and we have also carefully gone through the materials placed on record.

9. On the face of the records, we are of the view, what is being observed by the Central Administrative Tribunal is only with respect to the non-compliance of the principles of natural justice by issuing a show cause notice to the 1st respondent herein before issuing the order of termination. Any how, even now, it is not too late for the concerned Petitioner Authority to do the said exercise by issuing a show cause notice to the 1st respondent herein in this respect and on receipt of the same, the 1st respondent herein shall give his explanation for the same and thereafter, the concerned petitioner Authority shall take a decision in this matter. The above said exercise shall be completed within a period of three months from the date of receipt of a copy of this Order.

10. With the above directions, 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

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To

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

+1 cc to Mr.V.Balasubramanian Advocate sr 5763

W.P.No.1542/2018

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