

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.P.No.5937 of 2017
and W.M.P.No.6346 of 2017

- 1.Union of India rep. by
Addl. Secretary & Development
Commissioner (MSME)
(The Chairman, CFTI),
M/o.Micro, Small and Medium
Enterprises, 7th Floor,
Nirman Bhavan, New Delhi.
 - 2.The Director,
MSME Technology Development
Centre, Central Footwear Training
Institute (CFTI),
65/1, GST Road, Guindy,
Chennai - 32.
- ... Petitioners

Vs

- 1.E.Saravana Moorthy
 - 2.The Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai - 104.
- .. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorari to call for the records of the second respondent pertaining to the order dated 20.12.2016 in OA/310/01155/2015 and quash the same.

For Petitioners .. Mr.S.M.Deenadayalan

For Respondents .. Mr.G.Sankaran for R1
R2 - Tribunal

ORDER

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

This writ petition has been filed by the petitioners, aggrieved against the order of the Tribunal, by which the order of termination passed was set aside along with the incidental benefits in full.

2.Learned counsel appearing for the petitioners submits that the conditions of service and the appointment order have not been looked into properly. They merely provide for three months notice as the appointment itself was temporary. Reliance has been made on the order passed by the Division Bench in W.P.No.27640 of 2014 dated 17.10.2014. It is further submitted that the Tribunal has got itself misdirected with the issues which are not germane for deciding the dispute.

3.Learned counsel appearing for the contesting respondent would submit that principles of natural justice inheres any person whose rights which are civil in nature are likely to be affected. Admittedly, the contesting respondent was not put on notice. The order impugned did not indicate the reasons. Therefore, no interference is required.

4.We have heard the learned counsel appearing for the parties and perused the order of the Tribunal.

5.The Tribunal went into the merits and decided the matter against the petitioners. It has given a finding that the contesting respondent is not a contractual employee. After having found that the contesting respondent was not put on notice and the order does not indicate the reason, the Tribunal ought not to have gone into the merits. Though the Tribunal recorded the terms and conditions of appointment, they have not been considered properly. Admittedly, the contesting respondent has worked for more number of years. Mechanically, the order quoting the appointment order cannot be passed at that stage. The principles of natural justice being natural and inheres in a human being will have to be read into the provisions of law. They cannot be dispensed with unless the statute specifically says so. Certainly, the order of termination has got civil consequence.

6.In such view of the matter, while setting aside the order passed by the second petitioner, we remand the matter back to the second petitioner, who has to issue notice to the contesting respondent and thereafter decide the matter afresh by way of speaking order. This is for the reason that we do not find any malice either on fact or in law, as wrongly observed by the

Tribunal. Merely because earlier proceedings were challenged, malice cannot be inferred against an officer who was not available at that point of time.

7. Accordingly, the writ petition stands disposed of by setting aside the order of termination passed by the second petitioner with liberty to proceed with the matter in the light of the observations made in this order. It is made clear that all the issues are left open. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

mmi

To

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

+2cc to Mr.S.M.Deenadayalan, Advocate SR.No.80681

+1cc to Mr.G.Sankaran, Advocate SR.No.81285

W.P.No.5937 of 2017

SV (CO)

GMV (24/12/2018)

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