

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 25-07-2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.44570 OF 2016

1.Director General,
Department of Posts,
Dak Bhawan,
New Delhi - 110 001.

2.Chief Postmaster General,
Tamil Nadu Circle,
Chennai-600 002.

3.Director of Postal Services,
Chennai City Region,
Chennai-600 002.

4.Postmaster General,
Chennai City Region,
Chennai-600 002.

5.Senior Superintendent of Post Offices,
Tambaram Division,
Chennai-600 045.

Petitioners

-vs-

1.The Registrar,
CAT Madras Bench,
Chennai.

2.T.K.Venkateswaran

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records pertaining to order, dated 13.07.2015, passed in O.A.No.1543 of 2012, by the first respondent.

For petitioners : Mr.C.V.Ramachandramurthy

For respondent 2 : Mr.S.Arun

O R D E R

(Order of the Court was made by Hulumadi G.Ramesh,J.)

Heard the learned counsel for the parties.

2. The grievance of the second respondent, who was the applicant before the Tribunal, is that even though he possesses the qualifying service of 26 years, he has not been extended the benefit of financial upgradation.

3. The stand of the petitioner-Department is that the second respondent has suffered disqualification, which has not been considered by the Tribunal while deciding the Original Application, and, therefore, he is not entitled for the benefit under BCR Scheme. One more ground raised by the Department is that the Tribunal did not examine the fitness of the person at the relevant point of time.

4. It appears, for the misconduct or unauthorised absence, a charge memo came to be filed against the second respondent and there might have been a series of punishments for the misconduct or unauthorised absence. However, the fact remains that at the relevant point of time, since the second respondent has completed 26 years of qualifying service, he is entitled to the benefit of financial upgradation. Therefore, the Tribunal, in our view, has rightly extended the benefit to the second respondent, following the Full Bench decision of the Ernakulam Bench of the Kerala High Court, dated 05.01.2010, passed in O.A.No.430 of 2009, in K.Sasidharan Nair v. Senior Superintendent RMS TV Division, Thiruvananthapuram, and Another. The point that for the subsequent misconduct the punishment has been imposed on the second respondent is altogether a different aspect, for which, the Department can take a decision in accordance with law, if not already taken.

5. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.No.38377 of 2016 is closed.

Sd/-

Deputy Registrar

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Sub Assistant Registrar

dixit

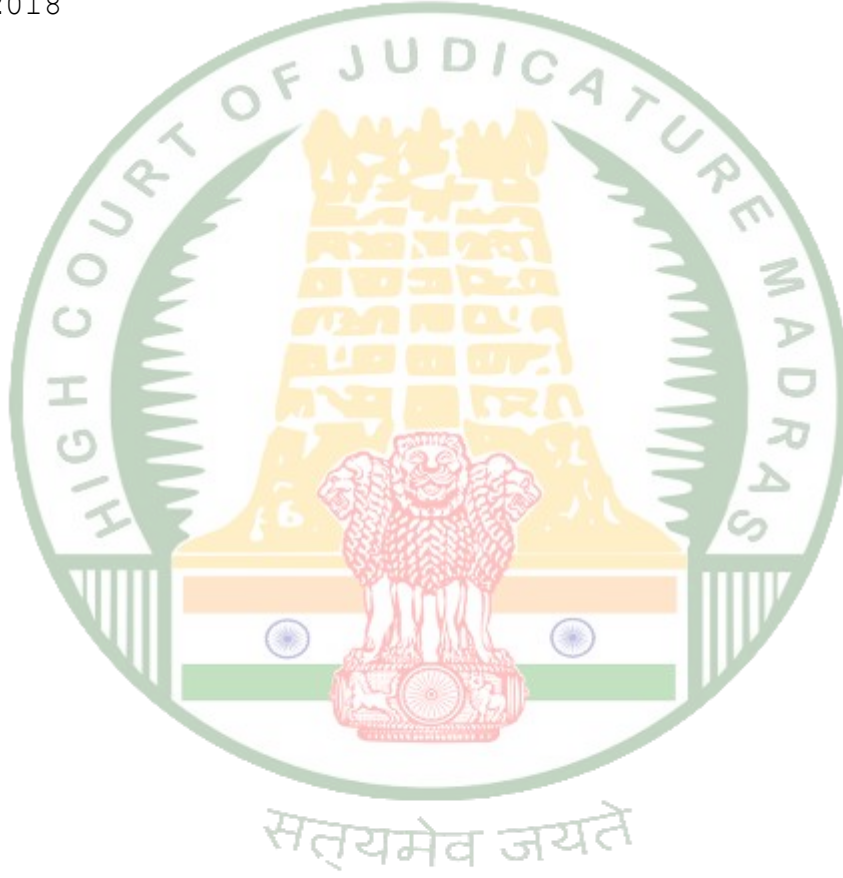
To

The Registrar,
CAT Madras Bench,
Chennai.

+1cc Mr.S.Arun, Advocate sr.no.49933

W.P.No.44570 OF 2016

nr 30/08/2018



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