

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2018
CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 28647 of 2017
and
W.M.P. No. 30853 of 2017

1. Union of India
Rep. By the Secretary,
Ministry of Personnel Public Grievances & Pensions,
Department of Pensions & Pensioners Welfare,
3rd Floor, Lok Nayak Bhawan,
Khan Market, New Delhi - 110 003.
 2. The Secretary,
Ministry of Communication & IT,
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi - 110 011.
 3. The Chief Postmaster
Tamil Nadu Circle,
Anna Salai, Chennai - 600 002.
 4. The Superintendent,
Railway Mail Service,
Chennai Sorting Division,
Chennai - 600 008.
 5. The Head Record Officer,
Chennai Sorting Division,
Chennai - 600 008.
- ...Petitioners

Vs.

1. The Registrar
The Central Administrative Tribunal,
Chennai Bench,
Chennai - 600 104.
 2. K. Hemavathy
- ...Respondents

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the impugned order dated 26.10.2016 made in O.A. No. 895 of 2015 on the file of the first respondent herein and to quash the same.

For Petitioners : Mr. C. V. Ramachandramurthy

For Respondents : R1 - Tribunal
Mr. R. Malaichamy for R2

ORDER

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

The second respondent herein was initially working as casual labourer under the Scheme. Her status was converted into a temporary one and regularisation was supposed to take place after the period mentioned therein. Unfortunately, the second respondent reached the age of superannuation before that. Resultantly, she could not be regularised as Regular Grade D employee. Seeking the benefits of pension on the peculiar facts, the second respondent approached the Tribunal. The Tribunal was pleased to allow the application and hence the present writ petition.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the second respondent.

3. It is not in dispute that the very same issue came up before the Tribunal on an earlier occasion, against which, a writ petition in W.P.No.7258 of 2012 was filed before the High Court of Karnataka. The said writ petition was dismissed by order dated 11.07.2013 and following is the operative portion:

"7. We find these are odd cases and if it is a fact that the person had worked as casual labour from the year 1987 onwards and the Tribunal under the circumstances had directed grant of pension and it had directed on and after the date of conferring temporary status casual employee on par with Group D employee and therefore even pension which temporary status D Group employee would have got on being confirmed should have been extended, we do not think we should interfere with such orders to the detriment of the respondent and having regard to the peculiar facts and circumstances of the case, therefore, we do not go into the question of eligibility under the rule and do not wish to disturb the order passed by the Tribunal and dismiss this writ petition.

8. We make it clear that this is not ruling given by the Court, for the purpose of laying down any law, but as an exceptional case having regard to the hardship faced by the respondent, we do not propose to interfere with the order of the Tribunal.

9.We grant four more months time from today to give effect to the order of the Tribunal."

4.The special leave petition filed against the above said order was dismissed by the Apex Court on 08.07.2014. Resultantly, the order of the Tribunal was given effect to. The aforesaid order of the High Court of Karnataka was relied upon by the Tribunal while allowing the present Original Application, which is the subject matter before us.

5.Learned counsel appearing for the petitioners would submit that the earlier order cannot be considered as a precedent. Therefore, the relief sought for being contrary to the Rule and Scheme, the writ petition will have to be allowed.

6.Learned counsel appearing for the contesting respondent/second respondent would submit that facts being the same, the same discretion will have to be extended to the case on hand as well.

7.We find force in the submissions made by the learned counsel appearing for the contesting respondent. It is not in dispute that the facts are similar and the only difference is year. In the case on hand, the contesting respondent was appointed as casual labourer from the year 1984, which is much prior to the case involved before the Division Bench of Karnataka High Court. Therefore, if at all, the contesting respondent has to be considered, on a better footing. Otherwise, the facts are absolutely similar. Therefore, the peculiar facts involved are available to the case on hand. The order of the Tribunal, as confirmed by the Division Bench of Karnataka High Court and Apex Court, has to be given effect to by the petitioners. Inasmuch as the contesting respondent, being a lady, is also similarly placed, we deem it appropriate that the orders will have to be extended to her as well.

8.In such view of the matter, we do not find any error in the order of the Tribunal warranting interference. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi

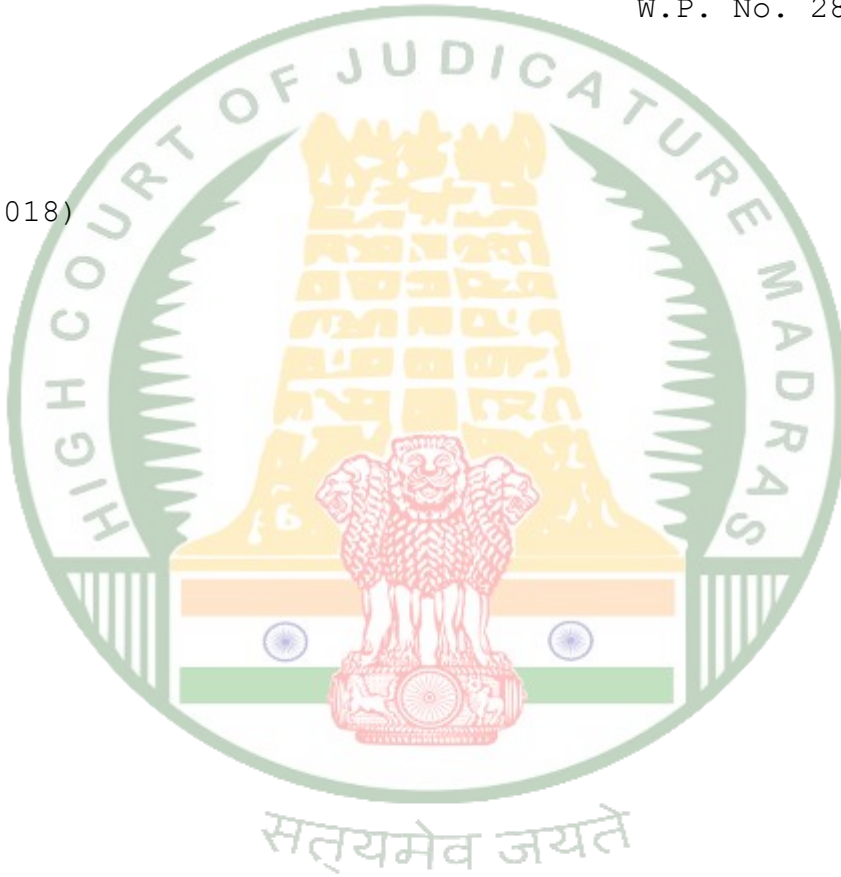
To

The Registrar
The Central Administrative Tribunal,
Chennai Bench, Chennai - 600 104.

+1 CC to Mr.C.V. Ramachandramurthy, Advocate sr 78826.
+1 CC to Mr.R. Malaichamy, Advocate sr 78868.

W.P. No. 28647 of 2017

SAI (CO)
SP(17/12/2018)



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