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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.10159 of 2013

1.The Assistant General Manager (Admn),
Office of the Chief General Manager,
Bharat Sanchar Nigam Limited,
Chennai Telephones,
Chennai - 600 010.

.... Petitioner

-Vs-

1.Sumathi Selvaraj

2.The Central Administrative Tribunal,
City Civil Court Building,
Chennai - 600 104.

.... Respondents

Write Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent Tribunal made in T.A.No.24 of 2010 (W.P.No.182 of 2005) dated 29.02.2012 and quash the same.

For Petitioner : Mr.S.Udayakumar

For Respondents : Mr.P.Rajendran

O R D E R

[Order of the Court was delivered by P.T.ASHA,J.]

The above Writ Petition is filed challenging the order passed by the Central Administrative Tribunal, Madras Bench, dated 29.02.2012. The factual matrix in brief essential for a better understanding of the issue on hand is herein below narrated:

2.The 1st respondent who was the applicant before the Central Administrative Tribunal had been appointed as Technician in the year 1983 and thereafter since the cadre of Technician was declared as a wasting cadre they were absorbed into the restructured cadre of Telecom Technical Assistant (TTA). By a communication dated 15.12.1998, the Writ petitioner had informed



that they intended to hold exams for the post of Junior Telecom Officer (JTO) (15% quota) to fill up vacancies of the year 1995 to 1998. The above communication further stated that the examination was to be conducted on 15th and 16th of May 1999.

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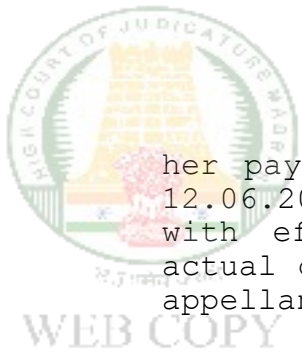
3.The communication further clarified that the vacancies for the year 1995 was to be filled up as per the Recruitment Rules, circulated vide letter dated 15.06.1990 and the vacancies for the years 1996 to 1998 would be filled up as per the Recruitment Rules notified in the letter dated 09.02.1966.

4.By reason of the said rules eligible TTAs applied for JTO (15% quota) for the year 1995-1998. The 1st respondent had attended the examination, but, however, her name was only considered for the vacancy pertaining to the recruitment year 1995 and not for the subsequent years on account of the fact that the 1st respondent was working as TTA when the examinations were held in 1999. A similarly placed candidate G.Selvaraj, who had scored lower marks had moved the Central Administrative Tribunal and obtained favourable orders. The respondent's representation to the Chief General Manager had no yielded results. The 1st respondent had filed W.P.No.25242 of 2002 for a Mandamus to extend the benefit granted to G.Selvaraj to her. This Court by order dated 16.07.2002 was pleased to direct the Chief General Manager to consider the representation and pass orders thereon after hearing the 1st respondent in the light of the order of the Central Administrative Tribunal, Chennai in O.A.No.1293 of 2000.

5.Pursuant to the said directions the Writ petitioner had issued an order dated 21.01.2003, declaring that the 1st respondent had also qualified in the JTO competitive examination and she was ultimately promoted as JTO in a supernumerary post with effect from 21.07.2003. The other candidates who had passed the same examination was selected for vacancies for the year 1996 to 1997 and joined as JTO on 12.06.2000 and promoted on 21.07.2003. Since the 1st respondent was eligible for notional fixation of pay with effect from 12.06.2000 together with other monetary benefits, she made a representation praying for notional fixation of pay in the Post of Junior Telecom officer with effect from 12.06.2000.

6.The petitioner had taken a stand that the 1st respondent was qualified only pursuant to the orders in O.A.No.1293 of 2000 and the High Court had accomodated her against supernumerary post where financial commitment was involved and therefore she could not be considered for pay fixation notionally with retrospective effect.

7.The Tribunal below had allowed the application filed by the 1st respondent and had directed the petitioner herein to fix



her pay in the post of Junior Telecom Officer with effect from 12.06.2000 and grant her annual increments on notional basis with effect from 12.06.2000 with monetary benefits from the actual date of promotion. It is challenging this order that the appellant is before this Court.

8. When the matter was taken up for hearing the counsel for the 1st respondent/applicant would submit that on a similar issue the Karnataka High Court had held that if the promotion of employee was delayed because of the pendency of the Court proceedings, he shall be entitled to a deemed date of promotion viz; the date of promotion of their counter parts and the 1st respondent were also held to be entitled to all consequential benefits such as counting of experience for the purpose of promotion, annual increments etc., with effect from 23.01.2002. It was also clarified that they would not be entitled for arrears of pay from the date of such notional fixation. The said order which was challenged by way of a Special Leave Petition has also been confirmed by the Honourable Supreme Court.

Considering the above Judgement we do not find any justification in setting aside the order of the Tribunal. Consequently, the Writ Petition stands dismissed. There shall be no order as to cost.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

The Central Administrative Tribunal,
City Civil Court Building,
Chennai - 600 104.

+lcc to Mr.P.Rajendran, Advocate, S.R.No.54638
+lcc to Mr.S.Udayakumar, Advocate, S.R.No.54669

W.P.No.10159 of 2013

PP (CO)

RRS (22/08/2019)