

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2019

CORAM:

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

W.P.No.8035 of 2018
&
W.M.P.Nos.10007 & 10008 of 2018

- 1.Union of India, Rep. by
Chief Post Master General,
Tamil Nadu Circle,
Chennai - 600 002.
- 2.Director of Postal Services,
O/o.Postmaster General,
Western Region,
Coimbatore - 641 002.
- 3.The Senior Superintendent of Post Offices,
Salem East Division,
Salem - 636 001. Petitioners

-vs-

- 1.Ms.R.Lavanya
- 2.Central Administrative Tribunal,
Rep. by its Registrar,
Madras Bench,
Chennai - 600 104. Respondents

Write Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for records of the 2nd respondent and quash the order dated 05.07.2016 in O.A.No.310/01952/2014.

For Petitioners: Mr.G.Karthikeyan
ASG of India

For R1 : M/S.M.S.Velusamy

O R D E R
[Judgment of the Court was delivered by P.T.ASHA,J.]

The above Writ Petition has been filed by the Union of India challenging the order passed by the Central Administrative Tribunal dated 05.07.2016, in O.A.No.310/01952/2014, in and by which the Tribunal had directed the petitioners to disburse 50% of the pay and allowances of the applicant, including the period from August 2014 to November 2014 and the remaining amount to be kept pending till the disposal of the disciplinary proceedings against the 1st respondent herein. The Tribunal had directed the petitioners herein to conclude the entire disciplinary proceedings within a period of five weeks from the date of receipt of a copy of the order.

2.The facts in brief necessary to dispose of the above Writ Petition are as follows:

3.The 1st respondent while working as a Postal Assistant in Valapady Post office and as Sub Postmaster in Seshanchavadi Post Office had committed fraud as detailed below:

i)RD non credits to the tune of Rs.47,200/- at Seshanchavadi Class III Post Office, which was detected on 04.03.2011.

ii)RD non credits to the tune of Rs.3,06,700/- at Valapady LSG Post Office which was detected on 04.04.2011.

4.The 1st respondent was working as a Savings Bank Postal Assistant at Valapady Post Office upto 05.05.2010 and was later posted as Sub Postmaster at Seshanchavadi Post Office. On coming to know about the fraud committed by her, the 1st petitioner placed the 1st respondent under suspension on 10.06.2011.

5.As against the said order the 1st respondent had preferred an appeal to the 2nd petitioner on 28.12.2011 and her suspension was revoked on 13.08.2012. She was reinstated in duty on 17.08.2012 and posted as Postal Assistant at Yercaud Sub Post Office.

6.The petitioners would contend that a sum of Rs.1,94,950/- was recovered from the sub offenders with reference to RD frauds at Valapady Post Office and a sum of Rs.1,74,731/- was yet to be recovered. The 3rd petitioner had submitted charge sheet to the 1st respondent for the fraud committed. The 1st respondent had not credited the amounts defrauded by her despite repeated notices through 3rd petitioner on 25.11.2013, 09.05.2014, 03.06.2014 and 06.06.2014.

7.After the finalisation of the disciplinary proceedings the 1st respondent was dismissed from service on 28.01.2015 by orders of the 3rd petitioner. Since the 1st respondent had not credited the amounts defrauded by her the 1st petitioner vide order dated 31.10.2014, had directed a sum of Rs.12,000/- per month from August 2014 to be withheld from the pay and allowances of the 1st respondent and orders were also given to withhold her bonus and DA arrears untill further orders.

8.The said order was challenged by the 1st respondent before the Tribunal and the Tribunal had passed the impugned order on 05.07.2016. Meanwhile, on the culmination of the departmental enquiry the 1st respondent was dismissed from service by order dated 28.01.2015. Though the impugned order had been passed later on 05.07.2016, the petitioners have failed to bring it to the notice of the Tribunal and therefore the Tribunal has passed the impugned order without considering the dismissal order dated 28.01.2005. The petitioners have filed a review petition. Since there was a delay of 47 days, the petitioners have filed M.A.No.54 of 2017 in R.A.No.27 of 2017 to condone the said delay.

9.The Tribunal by its order dated 13.11.2017, was pleased to dismiss the said M.A on the ground that the Tribunal had no Jurisdiction to entertain the Review Application which was filed beyond 30 days.

10.Meanwhile, the 1st respondent was convicted by the Judicial Magistrate No.VI, Salem, for her acts of fraud by orders dated 25.03.2019 in C.C.Nos.182/18 and 184/18.

11.The learned counsel for the petitioners would submit that in the light of the subsequent orders of the Judicial Magistrate No.VI, Salem, the orders of the Tribunal in the above case is liable to be set aside.

12.Considering the fact that the Tribunal had passed the impugned order more or less in the nature of an interim order pending the disciplinary proceedings and considering the fact that the disciplinary proceedings as well as criminal

proceedings had culminated against the 1st respondent the order passed by the Tribunal below has to be set aside. Accordingly the impugned order is set aside.

In the result, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Writ Miscellaneous Petitions are also closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To,

- 1.The Chief Post Master General,
Union of India,
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Salem - 636 001.
4. The Registrar,Central Administrative Tribunal,
Madras Bench,
Chennai - 600 104.

+1 CC to Mr.G.Karthikeyan, Advocate sr 48689.

+1 CC to Mr.M.S. Velusamy, advocate sr 48999.

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SS(CO)
SP(22/07/2019)