

In the High Court of Judicature at Madras

Reserved on	06.02.2019
Pronounced on	13.02.2019

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mr.Justice P.RAJAMANICKAM

W.P.No.848 of 2018 and
W.M.P.No.1016 of 2018

1. The Union of India rep. By
the Postmaster General,
Central Region (TN)
Department of Posts,
Thiruchirappalli- 620 001
2. Union of India rep. By
Senior Superintendent of Post Offices,
Department of Posts,
Thiruchirappalli Division,
Thiruchirappalli - 620 001 ...Petitioners

Vs.

1. The Central Administrative Tribunal,
Rep. By its Registrar,
Madras Bench,
Chennai - 600 104
2. J.Janakiraman ...Respondents

Prayer: Writ Petition filed under Article 226 Constitution of India to issue a Writ of Certiorari by calling for the records on the file of the 1st Respondent in connection with the order passed in O.A.No.1569 of 2013 vide order dated 06.09.2016 and quash the same.

For Petitioners : Mr.C.V.Ramachandramurthy

For Respondents : Mr.N.G.R.Prasad for
M/s Row & Reddy for R2

O R D E R

The Petitioners have preferred the instant Writ Petition praying for passing of an order by this Court in calling for the records on the file of the 1st Respondent / Central Administrative Tribunal, Madras Bench pertaining to the order passed in O.A.No.1569 of 2013 dated 06.09.2016.

2. Earlier, the 1st Respondent / Tribunal in O.A.No.1569 of 2013 filed by the 2nd Respondent / Applicant on 06.09.2016 at Paragraph No.7 had among other things observed the following:

7.....On perusal of the reply it is seen that since Rajiv Gandhi's house was surrounded by three streets, his address was noted in Civil Supplies Ration Card, Voter ID and other documents as Mariamman Koil Street, eventhough he is a permanent resident of Maniammai Street, M.K.Kottai and from that it is clear that there is some confusion in the address of the Rajiv Gandhi. The contention of the respondents that since N.Rajiv Gandhi has proved his identity the applicant should have exercised his discretion and should have arranged for the delivery of the said article which is addressee specific which is untenable as per the instructions issued for delivering the passport by GOI, Ministry of External Affairs vide letter dated 15.07.2013; wherein it is stated that in order to prevent the passport applicant from procuring additional passport should be delivered to be addressee only and not to be re-directed. Admittedly, the said Rajiv Gandhi was not residing in the address printed on the cover and therefore, it is obvious that the complaint given by the uncle of Rajiv Gandhi is of ill motive only to harass the applicant.....'

and consequently, set aside the proceedings of the 2nd Respondent [2nd Petitioner in Writ Petition] and allowed the Original Application.

3. The Learned Counsel for the Petitioners submits that the Impugned Order of the 1st Respondent in O.A.No.1569 of 2013 dated 06.09.2016 is a contrary and illegal one, besides the same being opposed to Law.

4. The Learned Counsel for the Petitioners contends that the 1st Respondent / Tribunal should have seen that the allegation against the Postman and the Post Master for allegedly demanding bribe for delivering Speed Post Articles containing passport is serious in nature. Further, it is represented on behalf of the Petitioners that the preliminary inquiry conducted by the Department had prima facie established the complaint is genuine.

5. The Learned Counsel for the Petitioners takes a stand

that the aspect of demanding 'Bakshish' should have been taken cognizance of by the 1st Respondent / Tribunal. However, the 1st Respondent / Tribunal had treated the case as a mere dispute about the address.

6. The Learned Counsel for the Petitioners comes out with an argument that the Department had initiated an inquiry under Rule 14 of CCS (CCA) Rules, 1965 by issuing a charge memo, but the 1st Respondent / Tribunal has set aside the charge memo and quashed the same, which is an incorrect one in the eye of Law.

7. The Learned Counsel for the Petitioners brings it to the notice of this Court that the 1st Respondent / Tribunal had quashed the charge sheet without taking into account the complaint made by the complainant or the preliminary report of the Assistant Director (Investigation) in Postmaster General's Office. In short, it is the contention of the Petitioners that there is no procedural lacuna in initiating Rule 14 Inquiry by the Department and certainly, an opportunity to prove the 2nd Respondent's innocence would be provided to him, but he filed the original application and obtained an interim stay for continuance of enquiry. Apart from that, as a delinquent employee, if the 2nd Respondent, has any grievance in respect of the charge sheet, he must raise the issue by submitting a representation and wait for the decision of the Disciplinary Authority.

8. It is urged on behalf of the Petitioners that the 2nd Respondent is a public servant receiving salary and remuneration from the Government and that the Postman serving under him allegedly demanded 'Bribe' from the public for performing his duties and that the 2nd Respondent had not brought the same to the notice of the Higher Authorities although he was fully aware of the issue.

9. The Learned Counsel for the Petitioners submits that Law does not permit the quashing of 'Charge Sheet' in a routine manner and relies on the decision of Hon'ble Supreme Court reported in 2012 (11) SCC 565 between Secretary, Ministry of Defence and Others V. Prabhash Chandra Mirdha at Page 565 at Special Page 572 at Paragraph No.10, it is held as under:

'Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction / competence to do so. A writ lies when some right of a party is infringed. In

fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court.'

10. Further, the Learned Counsel for the Petitioners points out the decision of Hon'ble Supreme Court reported in AIR 1998 Supreme Court 1833 between State of Andhrapradesh V. N.Radhakrishnan at Special Pages 1840 and 1841 wherein at Paragraph No.19 interalia it is held as under:

'....Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the Court is to balance these two diverse considerations.'

11. The Learned Counsel for the Petitioners cites the decision of Hon'ble Supreme Court in K.C.Sareen V. CBI, Chandigarh reported in (2001) 6 Supreme Court Cases 584 at Special Pages 589 and 590 wherein at Paragraph Nos.12 and 13 it is observed and held as under:

'12. Corruption by public servants has now reached a monstrous dimension in India. Its tentacles have started grappling even the institutions created for the protection of the republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the public offices, through strong legislative, executive as well as judicial exercises the corrupt public servants could even paralyse the functioning of such institutions and thereby hinder the democratic polity. Proliferation of corrupt public servants could garner momentum to cripple the social order if such men are allowed to continue to manage and operate public institutions. When a public servant is found guilty of corruption after a judicial adjudicatory process conducted by a court of law, judiciousness demands that he should be treated as corrupt until he is exonerated by a superior court. The mere fact that an appellate or revisional forum has decided to entertain his challenge and to go into the issues and findings made against such public servants once again should not even temporarily absolve him from such findings. If such a public servant becomes entitled to hold public office and to continue

to do official acts until he is judicially absolved from such findings by reason of suspension of the order of conviction, it is public interest which suffers and sometimes, even irreparably. When a public servant who is convicted of corruption is allowed to continue to hold public office, it would impair the morale of the other persons manning such office, and consequently that would erode the already shrunk confidence of the people in such public institutions besides demoralising the other honest public servants who would either be the colleagues or subordinates of the convicted person. If honest public servants are compelled to take orders from proclaimed corrupt officers on account of the suspension of the conviction, the fallout would be one of shaking the system itself. Hence it is necessary that the court should not aid the public servant who stands convicted for corruption charges to hold only (sic) public office until he is exonerated after conducting a judicial adjudication at the appellate or revisional level. It is a different matter if a corrupt public officer could continue to hold such public office even without the help of a court order suspending the conviction.

13. The above policy can be acknowledged as necessary for the efficacy and proper functioning of public offices.....'

12. The Learned Counsel for the Petitioners seeks in aid of the decision of the Hon'ble Supreme Court reported in (2012) 12 Supreme Court Cases between State of Maharashtra V. Balakrishna Dattatrya Kumbhar at Page 384 at Special Pages 389 and 390 at Paragraph No.17 it is observed as under:

'17. The aforesaid order is, therefore, certainly not sustainable in law if examined in the light of the aforementioned judgments of this Court. Corruption is not only a punishable offence but also undermines human rights, indirectly violating them, and systematic corruption, is a human rights' violation in itself, as it leads to systematic economic crimes. Thus, in the aforesaid backdrop, the High Court should not have passed the said order of suspension of sentence in a case involving corruption. It was certainly not the case where damage if done, could not be undone as the respondent employee, if ultimately succeeds, could claim all the consequential benefits. The submission made on behalf of the respondent, that this Court should not interfere with the impugned order

[Balakrishna Dattatray Kumbhar V. State of Maharashtra, Criminal Application No.157 of 2008 in Criminal Appeal No.1243 of 2007, decided on 08.04.2008 (Bom).]

13. Conversely, it is the submission of the Learned Counsel for the 2nd Respondent that the 2nd Respondent / Petitioner in O.A.No.1569 of 2016 had averred that he entered into service of the Petitioners / Respondents' Department as 'Postal Assistant' in the year 1976 and was serving as Postmaster Grade I in Melakalkandar Kottai S.O., Tiruchirapalli Division. Further, he discharged his duties all these years to the utmost satisfaction of his superiors. He was transferred from Kallakudi to Melakalkandar Kottai S.O., from the present place as 'Postmaster - Grade I' by means of an order dated 17.03.2011 by the 2nd Petitioner / 2nd Respondent.

14. The Learned Counsel for the 2nd Respondent contends that on 25.02.2013 original passport was received by the Office of the 2nd Petitioner / 2nd Respondent addressed to one Rajiv Gandhi and in the passport, postal cover address was mentioned as 9/1, Mariamman Koil Street. When the postman, viz., R.Gopalakrishnan working under the

control of the 2nd Respondent / Applicant made an endeavour to serve the said passport in the address mentioned, there was no such person in the name of 'Rajiv Gandhi' and that the said post man, viz., R.Gopalakrishnan by following the usual procedure, made an endorsement 'No such addressee in the above address' and that the 2nd Respondent returned the said passport on 26.02.2013 to the passport office [next day].

15. The Learned Counsel for the 2nd Respondent brings it to the notice of this Court that on 25.02.2013, the said Rajiv Gandhi visited post office along with his uncle, viz., Suresh Kannan and insisted that the passport should be delivered. Further, the Applicant / 2nd Respondent informed that as per Rules, the Passport should not be handed over to them inasmuch as in the address mentioned in the passport cover, the said person was not residing.

16. The Learned Counsel for the 2nd Respondent points out that the 2nd Respondent's uncle Rajiv Gandhi had insisted his uncle to give a false complaint against the 2nd Respondent and as against postman, R.Gopalakrishnan to the effect that they had refused to handover the passport for the reasons best known to them. In this connection, the Learned Counsel for the 2nd Respondent strenuously projects an argument that the aforesaid Rajiv Gandhi and his uncle got very much agitated when the 2nd Respondent / Applicant refused to handover the passport resulting in a false complaint being sent. Apart from that, the

said uncle Rajiv Gandhi had threatened the post man that if the passport is not handed over to him, the postman and the 2nd Respondent would have to face consequences.

17. The Learned Counsel for the 2nd Respondent submits that the 2nd Respondent came to know that Rajiv Gandhi was actually residing in 52 A-9/1 Maniammai Street, Arjun Nagar, M.K.Kottai, Trichy - 620 011 and hence, the passport could not be delivered on the false address indicated in the postal cover. Moreover, to the 2nd Respondent's / Applicant's knowledge it came to light that in the address mentioned in the passport cover, one Durairaj is residing for the past 25 years and a ration card was issued to him. Besides these, although it was alleged that the 2nd Respondent had directed the money being given to the postman and to collect the passport, no such statement was recorded from the co-employees.

18. It is represented on behalf of the 2nd Respondent that by means of an order of the 1st Petitioner dated 05.07.2013 and consequential order dated 08.07.2013 of the 2nd Petitioner, the 2nd Respondent was transferred to another post office by means of Udayarpalayam S.O., which is about 100 Kms from the present place and in short, the 2nd Respondent was shocked to receive transfer order and that the Petitioners / Respondents without assailing any details, had passed the transfer order.

19. The Learned Counsel for the 2nd Respondent contends that that the 2nd Respondent on an earlier occasion filed O.A.No.985 / 2013 before the Tribunal, wherein the transfer order was stayed on 23.07.2013 and later, the Interim Order was extended and that the postman, R.Gopalakrishnan was transferred and the said post man assailing the transfer order, filed O.A.No.1144 of 2013, where an order of transfer was stayed by the Tribunal.

20. The Learned Counsel for the 2nd Respondent submits that the said Rajiv Gandhi, later had effected the change of address in the ration card and again applied for the passport and obtained the same through Speed Post Delivery bearing No.ET 943074827IN on 29.07.2013. When that be the fact situation, the 2nd Petitioner / 2nd Respondent issued the charge memo dated 30.09.2013 and proposed to initiate an 'Inquiry' as per Rule 14 Central Civil Services [Classification, Control and Appeal] Rules, 1965.

21. The Learned Counsel for the 2nd Respondent emphatically takes a plea that the individual Rajiv Gandhi with an ulterior motive made an endeavour to collect passport from the office of the 2nd Respondent and his demand was not complied with and under this circumstance, a false complaint was lodged at the instance of Rajiv Gandhi in the name of his uncle 'Suresh Kannan' which

culminated in the order of transfer, which was stayed and the 2nd Respondent was issued with charge memo, which is an illegal and unlawful one.

22. The Learned Counsel for the 2nd Respondent advanced an argument that the change of address effected by Rajiv Gandhi in the Ration card in order to get the passport, indicates the bonafide of 2nd Respondent and as such, the impugned charge memo is liable to be set aside. Furthermore, the charge memo was issued to the 2nd Respondent in an arbitrary manner with a colourable exercise of power.

23. The Learned Counsel for the 2nd Respondent refers to RTI Information furnished by the Passport office, Thiruchirappalli addressed to the Secretary of AIPEU Group C, Thiruchirapalli Division, Thiruchirapalli [in TRI/551/73/2013 (60/13) RTI Ref.No.201310052235 dated 15.07.2013] wherein it is mentioned as under:

'Under the Passports Act, 1967, a passport applicant is expected to be staying at the present address given in the application form. However, many applicants apply with wrong or incomplete address in order to procure additional passport and request local post office and re-direct the passport to their new address. In order to prevent this, it has been decided that the passport should be sent only by Speed Post / Registered Post in specially printed envelopes in Hindi and English in bold letter. "PASSPORT TO BE DELIVERED TO THE ADDRESSEE ONLY. NOT TO BE RE-DIRECTED'

24. The Learned Counsel for the 2nd Respondent brings it to the notice of this Court that on 01.08.2017, the 2nd Respondent was promoted from the post of Grade I, Ordinance Estate SO to that of the post as 'Postmaster, Karaikal, MDG' [as per Memo No.B1/PM-GR-I/Dlgs dated 01.08.2017]

25. The Learned Counsel for the 2nd Respondent refers to the order dated 28.01.2009 in W.P.No.15356 of 2007 between G.Sreekumar Menon V. Union of India and Others wherein at Paragraph Nos.23 and 24, it is observed as under:

'23. It has to be seen whether in the present case initiation of the disciplinary proceeding was justified.

We have already extracted the articles of charges. It is apparent that charges were based upon the order passed by the petitioner which was perceived to be erroneous by the appellate authority. Entire articles of charges read as a whole would indicate that there is no specific allegation of recklessness or utter negligence of the quasi-judicial function and similarly there is no specific allegation of any over misconduct.

24. In our considered opinion, the ratio of the latest decision of the Supreme Court in Ramesh Chander Singh's case would be applicable in the absence of specific imputation of dishonesty, lack of bonafide or utter negligence in discharge of duties and initiation of departmental proceedings is required to be quashed. Incidentally it may be pointed out that even though the appellate authority had set aside the order passed by the present petitioner. In view of this subsequent event, even the main basis for the initiation of the disciplinary proceedings, namely, the alleged illegal and erroneous order is no longer available. In the changed circumstances it would not be appropriate to continue the disciplinary proceedings.'

26. The Learned Counsel for the 2nd Respondent cites the decision dated 25.02.2016 in Writ Appeal No.659-660/2014 [2016 SCC Online Madras 5477] between State of Tamilnadu rep. By Principal Secretary to Government, Chennai - 9 and Another V. V.Mohan wherein at Paragraph Nos.6 to 8, it is observed as under:

'6. Aggrieved by the charge memos and the orders of retention and suspension, the respondent filed two writ petitions in W.P.Nos.3244 and 3245 of 2010. Both the writ petitions were allowed by the learned Judge by an order dated 13.03.2013. Aggrieved by the said order, the State has come up with the above appeals.

7. The main crux of the arguments of Mr.P.H.Aravind Pandian, learned Additional Advocate General is that the learned Judge has failed to take note of Rule 161 of the Registration Rules, which reads as follows:

"A registering officer will be held liable for any loss to Government which may arise from neglect on his part in the registration of a document, the making of a search or the grant of a copy of a document."

8. But, a close look at the charge memos dated 20.01.2010 and 21.01.2010 would reveal that there is no concrete allegation of any misconduct, against the respondent. Both the charge memos are based upon the audit objections alleging that the revenue loss had occasioned on account of valuation of certain documents presented for registration. The first charge memo was in respect of a deed of mortgage presented for registration in the year 2006. The mortgage deed contained a clause enabling the mortgagee to take action, for recovery of possession in the event of default. Unfortunately, the document was construed wrongly by the audit as a deed of mortgage with possession. It shows lack of knowledge about the kind of document that was presented for registration. Therefore, the first charge memo, which was based upon

an audit objection, on a wrong understanding of law, was obviously liable to be quashed and the learned Judge was right in quashing the same.'

27. The Learned Counsel for the 2nd Respondent refers to the decision of D.Ramaswami V. State of Tamilnadu reported in 1982 1 LLJ at Page 349 wherein at Paragraph No.6, at Special Page 351, it is observed as under:

'6. In the face of the promotion of the appellant just a few months earlier and nothing even mildly suggestive of ineptitude or inefficiency thereafter, it is impossible to sustain the order of the Government retiring the appellant from service. The learned counsel for the State of Tamil Nadu argued that the Government was entitled to take into consideration the entire history of the appellant including that part of it which was prior to his promotion. We do not say that the previous history of a Government servant should be completely ignored, once he is promoted. Sometimes, past events may help to assess present conduct. But when there is nothing in the present conduct casting any doubt on the wisdom of the promotion, we see no justification for needless digging into the past.'

28. By way of Reply, the Learned Counsel for the Petitioners submits that the Postal Directorate, as per letter No.57-01/2010-BD&MD dated 11.04.2012 had given a clear instructions that the speed post articles containing passport is 'Addressee Specific' and that the postman would have delivered the said speed post article as he was sure about the genuineness of the case. Furthermore, it is the stand of the Petitioners that the 2nd Respondent as 'Postmaster' could have acted judicially by making proper enquiry of the case and could have made the 'speed post article' delivered to the said addressee. Moreover, there is no 'Addressee' in the name of Rajiv Gandhi in that area and that the postman is fully aware of the same and that apart, he had shifted his residence to the other side. In short, the action of the 'Postman' and the 2nd Respondent are totally irresponsible and by their ways and means of demanding bribe to discharge their duties, they are responsible for unnecessary hardship caused to the said addressee. Also that, the 2nd Respondent holding the responsible post had allegedly fallen prey for the material gain for the discharge of his official duties.

29. In the instant case, the charge levelled against the 2nd Respondent runs as under:

Article I

The said Shri J.Janakiraman while working as Postmaster Grade I, M.K.Kottai SO during the period from 01.07.2011 to 07.07.2013 is alleged to have been the cause for inviting unnecessary complaint from Shri N.Suresh Kannan, @ No.52, Maniammai Street, Melakalkandarkottai, Tiruchirappalli - 620 011 alleging non delivery of Speed post article bearing No.ET 9422261275 IN dated 24.02.2013 with which passport was received, to the addressee, Shri N.Rajiv Gandhi.

Therefore it is imputed that the said Shri J.Janakiraman who is to exercise effective supervision over the work of his subordinates, did not follow the instructions issued in regard to delivery of Speed post articles containing passport, i.e., the concept of addressee specific and not address specific and became the cause for such unwarranted complaint by his act of non exercising his prudence over the issue and the identity of the addressee of the speed post article in question and thereby failed to maintain devotion to duty as required of him under Rule 3(1)(ii) of CCS (Conduct) Rules, 1964.'

Further, Annexure II 'Statement of Imputations of Misconduct' was enclosed.

30. The stand of the 2nd Respondent is that issuance of Charge Memo dated 30.09.2013 is untenable in the light of the reply dated 15.07.2013 given by the Central Public Information Officer, Government of India, Ministry of External Affairs, Passport Office, Tiruchirappali, which runs to the following effect:

'Under the Passports Act, 1967, a passport applicant is expected to be staying at the present address given in the application form. However, many applicants apply with wrong or incomplete address in order to procure additional passport and request local post office and re-direct the passport to their new address. In order to prevent this, it has been decided that the passport should be sent only by Speed Post / Registered Post in specially printed envelopes in Hindi and English in bold letter. "PASSPORT TO BE DELIVERED TO THE ADDRESSEE ONLY. NOT TO BE RE-DIRECTED.'

Further, it is projected on side of the 2nd Respondent that the complaint itself is motivated and charge sheet is baseless one with contrary to the Passport Office Rules.

31. In this connection, this Court pertinently points out that if an employee is charged with misconduct of grave nature and employer had issued formal charge sheet for ascertaining the

truth, in respect of the allegation, certainly, no order is issued to the prejudice of an employee. Also that, an Employer's right to seek explanation or Statements of Defence cannot be curtailed by a Court of Law. Ordinarily, a Court of Law is not supposed to go into the correctness or otherwise of the charge levelled in charge sheet and the departmental proceedings ought to be proceeded with uninterruptedly to reach its logical conclusion. More importantly, if the charges does not disclose any misconduct of an employee and the same being an harassment for him, then, a Court of Law can very well interfere with the same. If a charge sheet is issued contrary to Law, the same can be interfered with by a Court of Law, as per decision of Hon'ble Supreme Court between Government of Tamilnadu V. K.N.Ramamurthy reported in AIR 1997 Supreme Court at page 3571.

32. It is to be remembered that Departmental proceedings are the expression of Power of Control of the Master and all 'Employees' are amenable to the 'Departmental Proceedings'. The charge sheet is normally not to be quashed, unless, it had caused prejudice to the 'Delinquent /Deviant Employee', as per decision of Hon'ble Supreme Court Union of India V. B.V.Gopinath reported in 2013(11) Scale Page 162. The position of Law is that mere issuance of 'Charge Memo' does not affect the integrity of an 'Employee'.

33. At this stage, this Court aptly points out the decision of Hon'ble Supreme Court reported in AIR 2001 Supreme Court 343 between State of Punjab V. V.K.Khanna and others at Special Page 354, wherein at Paragraph No.25, it is observed as under:

'25. Bias admittedly, negates fairness and reasonableness by reason of which arbitrariness and mala fide move creep in - issuance of the two notifications assuming in hot haste but no particulars of any malafides move or action has been brought out on record on the part of Shri V.K.Khanna - While it is true that the notings prepared for Advocate General's opinion contain a definite remark about the mala fide move on the part of Shri V.K.Khanna yet there is singular absence of any particulars without which the case of malafides cannot be sustained. The expression 'malafide' has a definite significance in the legal phraseology and the same cannot possibly emanate out of fanciful imagination or even apprehensions but there must be existing definite evidence of bias and actions which cannot be attributed to be otherwise bonafide - actions not otherwise bonafide, however, by themselves would not amount to be malafide unless the same is inaccompaniment with some other factors which would depict a bad motive or intent on the part of the doer of the act.

34. Further, on 'Stale Charges' it would be unfair and in violation of natural justice to permit the continuance of 'Disciplinary Proceedings'. As a matter of fact, in Law, charge sheet can be assailed (a) If it does not disclose any misconduct (b) If it discloses 'Bias' or prejudices the guilt of Charged employee (c) There is non application of mind (d) If the charge is rested on stale / vague allegation and also it is issued with 'Malafide'. Also that, one cannot brush aside an important fact that unnecessarily an 'Employee' cannot be under supervision because of any arbitrary decision taken by an 'Employer'.

35. On a careful analysis of the contentions advanced on either side and also this Court taking note of the surrounding facts and circumstances of the instant case in a conspectus fashion is of the considered opinion that one Rajiv Gandhi to whom the cover was addressed at No.9/1, Mariamman Koil street and when an endeavour was made by the postman, Gopalakrishnan to serve the original passport, he found that 'no such person was there' in the said address and hence, the passport was returned with necessary endorsement thereto. Suffice it for this Court to point out that the Return of passport based on the postman endorsement, as stated supra cannot be found fault with because of the reason that the Government of India, Ministry of External Affairs, Passport Office, Tiruchirappalli had addressed a communication to the 2nd Respondent citing the passport manual interalia stating that 'Passport to be delivered to the addressee only not to be Re-directed'. Looking at from this point of view, this Court comes to an irresistible conclusion that the view taken by the Tribunal in O.A.No.1565 of 2016 dated 06.09.2016 in allowing the Original Application by quashing the Impugned Order dated 30.09.2013 in Memo No.CCC/RO/Dak Adalat/March 2013 / Dlgs is free from material irregularity and patent illegality in the eye of Law. Resultantly, the Writ Petition fails.

In fine, Writ Petition is dismissed leaving the parties to bear their own costs and connected Miscellaneous Petition is closed. Consequently, the order of the 1st Respondent / Tribunal dated 06.09.2016 in O.A.No.1569 of 2013 is affirmed by this Court for the reasons assigned in this Petition.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

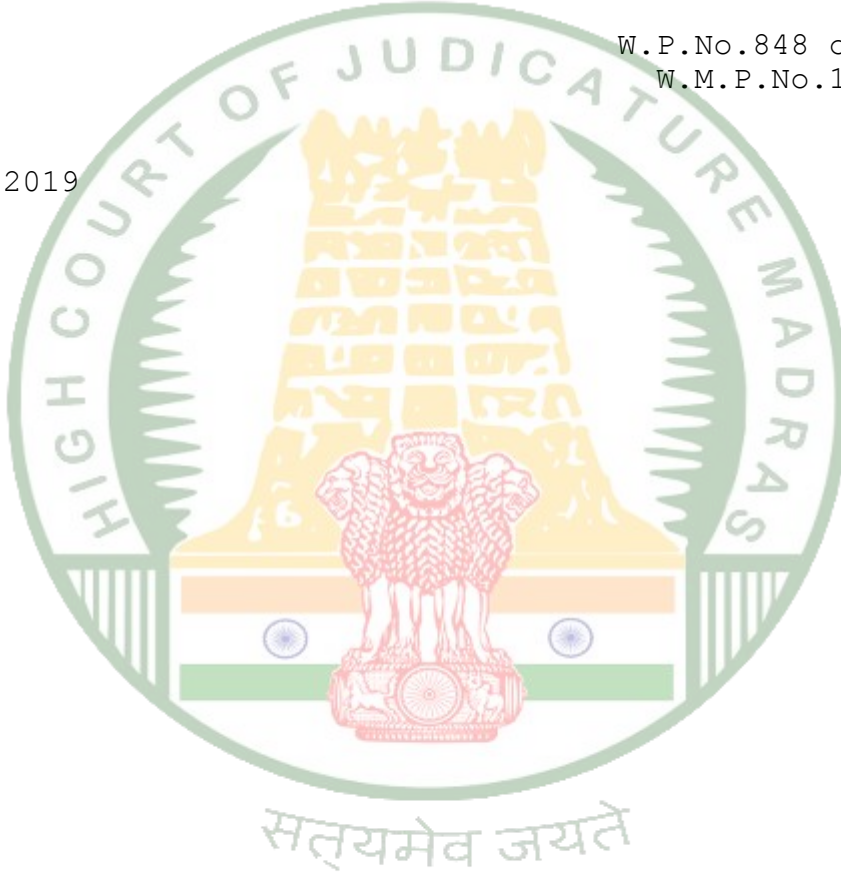
The Registrar, Central Administrative Tribunal,
Madras Bench,
Chennai - 600 104.

+1 cc to M/s. Row & Reddy, Advocate Sr.No.13270

+1 cc to Mr.C.V.Ramachandra Murthy, Advocate Sr.No.12736

RR(CO)
CSL/14.03.2019

Order in
W.P.No.848 of 2018 and
W.M.P.No.1016 of 2018



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