

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2019

CORUM

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

W.P.No.4613 of 2017
and
W.M.P.No.4861 of 2017

M. Ramadoss

... Petitioner

Vs.

1.The Superintendent of Post Offices,
Sivaganga Division,
Sivaganaga - 630 561.

2.The Adhoc Disciplinary Authority
and Assistant Superintendent of Post Office,
Madurai South Sub-Division,
Madurai.

3.The Sub-Divisional Inspector (Postal),
Sivaganga Sub-Division,
Sivaganga - 630 561.

4.The Central Administrative Tribunal
rep. by its Registrar,
Madras Bench.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the Central Administrative Tribunal, Madras Bench, in O.A.No.1099 of 2014 dated 28.07.2016 confirming the order of the 1st respondent made in Memo No.F1/3-2/06-07 dated at Sivaganga - 630 561 dated 21.04.2014 and quash the same and direct the official respondents to reinstate the petitioner with all service and monetary benefits.

For Petitioner : Mr.M. Muthappan

For Respondents : Mr.S. Sathish Rajan for R1 to R3
R4-Tribunal

O R D E R

(Order of the Court was made by P.T. ASHA, J.,)

This Writ Petition is filed challenging the order passed by the Central Administrative Tribunal, Madras Bench, in O.A.No.1099 of 2014 dismissing the application filed by the petitioner herein against the order passed by the 1st respondent.

2.The facts in brief which are necessary for the disposal of the above Writ Petition are as follows:

The petitioner herein had entered into the service of the respondents as Gramin Dak Sevak Mail Deliverer, on 21.01.1981 in the Sub Post Office at Thirukostiyur. In the year 2006, the petitioner was placed under suspension by the 3rd respondent by order dated 05.01.2007 on the ground of misconduct. A charge memo was issued on 17.02.2009 and the 2nd respondent was appointed as the Enquiry Officer on 31.03.2009. The petitioner would contend that the Enquiry Officer had submitted a report in which he had held him guilty of two charges and the third charge was declared as not proved vide his report dated 11.06.2013.

3.The petitioner had submitted his explanation to the Enquiry Officer's report. The 2nd respondent accepted the enquiry report and imposed a penalty debarring the petitioner from appearing in the Postman/Multi Tasking Staff Group Examination for a period of three years. The order passed by the 2nd respondent does not reflect an application of mind vis-a-vis the enquiry report. Thereafter, the 1st respondent issued a show cause notice as to why the punishment should not be enhanced to that of removal from service by way of a suo motu revision. The petitioner had submitted a very detailed objection to the said show cause notice vide his letter dated 15.04.2014. After receiving the objection, the 1st respondent has passed the impugned order removing the petitioner from service with immediate effect. It is challenging this order that the petitioner had moved the Central Administrative Tribunal. The Tribunal confirmed the order passed by the 1st respondent. Challenging the said order, the petitioner had filed the above Writ Petition.

4.Heard Mr.M. Muthappan, learned counsel for the petitioner and Mr.S. Sathish Rajan, learned Senior counsel for the respondents 1 to 3.

5.A perusal of the order of the 1st respondent, which is the subject matter of the challenge, clearly shows the non application of mind on the part of the 1st respondent. The 1st respondent had not taken into consideration the objections that have been raised by the petitioner to the show cause notice and has mechanically passed an order. The order of the Tribunal reflects an absence of application of mind.

6.The order of the Tribunal therefore is liable to be set aside and is accordingly set aside. The matter is remitted back to the 1st respondent for fresh consideration of the show cause notice dated 04.04.2014 along with objections submitted by the petitioner. The 1st respondent is directed to dispose of the same within a period of two months from the date of receipt of a copy of this order. It is needless to state that a personal hearing should also be given to the Writ Petitioner while disposing of the above petition. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

mps

To

1.The Superintendent of Post Offices,
Sivaganga Division,
Sivaganga - 630 561.

2.The Adhoc Disciplinary Authority
and Assistant Superintendent of Post Office,
Madurai South Sub-Division,
Madurai.

3.The Sub-Divisional Inspector (Postal),
Sivaganga Sub-Division,
Sivaganga - 630 561.

4.The Registrar,
Central Administrative Tribunal,
Madras Bench.

+1 CC to Mr.M.Muthappan, Advocate sr 54582.

+1 CC to Mr.S.Sathish Rajan, Advocate sr 54449.

WEB COPY

W.P.No.4613 of 2017
&W.M.P.No.4861 of 2017

VD(CO)
SP(05/08/2019)