

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.3414 of 2020
and W.M.P.No.3982 of 2020

1.S.Iyyanar

2.G.R.Mourougane

3.G.Murugavel

4.TFranklin Sunil

5.S.Kambala Malleswara Rao ... Petitioners

Versus

1.The Central Administrative Tribunal
Chennai.

2.Union of India,
rep. By the Secretary of Labour,
Chief Secretary,
Government of Puducherry,
Puducherry.

3.The Commissioner
Department of Labour,
Government of Puducherry,
Puducherry.

...Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorarified Mandamus calling for records and quash the impugned order dated 28.08.2019 passed by the 1st respondent Tribunal in O.A.No.991 of 2017 which has been filed challenging the order dated 16.02.2016 passed by the 2nd respondent in his proceedings No.9984/LAB/SW/A1/2015/221 rejecting the claim of the petitioners, to regularise their services, who are working as

Vocational Instructor from the date of their selection by the Recruitment Committee on 22.03.2001 and consequently pass an order or direction to the respondents 2 and 3 to regularise the service of the petitioners who have been appointed in pursuant to the Recruitment committee Meeting held on 22.03.2001 as Vocational Instructor (Group-B, Non-Gazetted).

For Petitioner : Mr.D.Baskar
For Respondents: Mr.R.Syed Mustafa
Special Government Pleader
(Pondicherry)

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The petitioner and others had filed O.A.No.991 of 2017 on the file of the 1st respondent Tribunal, challenging the order dated 16.02.2016 passed by the 2nd respondent, rejecting their claim for regularisation of their services as Vocational Instructor from the date of their selection by the Recruitment Committee on 22.03.2001. The Original Application was entertained and for completion of pleadings, it was listed before the Registrar of the 1st respondent Tribunal on 26.06.2018 and 21.01.2019. When the matter was listed on 30.07.2019 before the Registrar, the counsel for applicant was present and the counsel for respondents was absent and having taken note of the fact that the Reply Statement is not forthcoming, the Registry directed the listing of the matter before the regular Bench / Tribunal on 09.08.2019. Accordingly, the matter was listed on 09.08.2019 and on that date, the counsel for applicant was absent and it was represented on behalf of the counsel for respondents that a copy of the Original Application has not been served and therefore, the 1st respondent Tribunal directed the listing of the matter under the caption ''for dismissal'' on 28.08.2019 and on that date, there was representation on behalf of the applicant and having taken note of the fact that even the copy of the Original Application has not been served on the respondents and despite the matter being listed under the caption ''For Dismissal'', no proper representation on behalf of the applicant, the Tribunal had dismissed the said Original Application for default and challenging the legality of the said order, the present Writ Petition is filed.

2. The learned counsel appearing for the petitioner would submit that it was not even the representation of the learned counsel appearing for the respondents before the Registry as to the non serving of the copy of the Miscellaneous Application and

in fact, the Registry of the 1st respondent having noted that no reply is forthcoming, directed the listing of the matter before the Tribunal, who inturn directed the listing of the matter under the caption ''for dismissal'' on 28.08.2019. It is a further submission of the learned counsel appearing for the petitioner that when the matter was listed for dismissal on 28.08.2019, there was representation on behalf of the applicant and however, the Tribunal having taken note of the fact that the copy of the Original Application has not served upon the learned counsel for the respondents, had dismissed the Original Application for default and the fact remains that now the copy of the Original Application has been served on the learned counsel appearing for the respondents and therefore, there cannot be any impediment for ordering the restoration of the Original Application with further direction to give disposal of the Original Application at an early date.

3. This Court heard the submission of Mr.R.Syed Mustafa, learned Special Government Pleader (Pondicherry) appearing for the respondents who would submit that Reply affidavit in the same Original Application would be filed very soon and this Court may pass appropriate orders.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. In the light of the fact that now the copy of the Original Application with annexures have been served on the learned counsel appearing for the respondents in the said Original Application and Mr.R.Syed Mustafa, learned Special Government Pleader (pondicherry) appearing for the respondents 2 and 3 on instructions would also submit that Reply Statement in the main Original Application would be filed very soon, there cannot be any impediment in restoring the said Original Application which came to be dismissed for default vide impugned order dated 28.08.2019.

6. In the result, the Writ Petition is partly allowed and the impugned order dated 28.08.2019 in O.A.No.991/2017 is set aside and as a consequence, O.A.No.991/2017 stands restored to the file of the 1st respondent. The respondents are granted three weeks time from the date of receipt of a copy of this order, to file a reply statement with annexures and upon receipt of the same, the 1st respondent Tribunal is directed to accord priority

and give a disposal to the main Original Application as expeditiously as possible. No costs. Consequently connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sk

To

1.The Central Administrative Tribunal
Chennai.

2. The Secretary to Labour
Union of India,
Chief Secretary,
Government of Puducherry,
Puducherry.

3.The Commissioner
Department of Labour,
Government of Puducherry,
Puducherry.

+1 cc to M/s.D.baskar advocate sr15709

+1 cc to Government pleader sr16412

WP.No.3414 of 2020

vsnII(co)
aa14/05/2020

सत्यमेव जयते

WEB COPY