

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.30507 of 2019

J.Kumar

... Petitioner

Vs

1.The Central Administrative Tribunal
Chennai Bench,
Chennai - 600 104.

2.The General Manager,
Armoured Vehicles Headquarters,
Avadi, Chennai - 600 054.

3.The Additional Director/
Appellate Authority,
D.G.O.F,
YF Group Headquarters,
G.T.Road, Kanpur.

4.Union of India,
Rep. by its Under Secretary,
Ministry of Defence,
Ministry of Defence Production,
New Delhi.

... Respondents

Prayer : Writ Petition filed under 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records culminated in the 1st respondent's order dated 08.12.2016 made in O.A.No.1303 of 2013 and quash the same and consequently, direct the 1st respondent to decide the O.A.No.1303 of 2013 on merits.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.K.B.Arul, ACGSC for R2 to R4
R1 - Tribunal

ORDER

(Order of the Court was made by M.M.SUNDRESH,J)

Seeking a writ of certiorarified mandamus and to call for the records that culminated in the 1st respondent's order dated 08.12.2016 made in O.A.No.1303 of 2013 and to quash the same, the present writ petition has been filed.

2. The petitioner filed O.A.No.1303 of 2013 before the Central Administrative Tribunal. The petitioner did not prosecute the case and the same was dismissed for default on 08.12.2016. An application was filed in M.A.No. 85 of 2017 to restore O.A.No.1303 of 2013. Unfortunately, the said application was also not represented. Having found no reason to keep the applications pending, it was once again dismissed for non-prosecution. Thereafter, the present writ petition has been filed seeking to set aside the order dated 08.12.2016 by which O.A.No.1303 of 2013 was dismissed for default.

3. The learned counsel appearing for the petitioner submitted that a similar matter is pending consideration before the Tribunal. The petitioner is a physically challenged person having hearing impairment. Therefore, an opportunity may be given to contest the matter on terms.

4. The learned counsel appearing for respondents 2 to 4 would submit that the reasons assigned cannot be sustained in the eye of law. It is not a case of one time default. As against the order passed on 10.12.2018, the petitioner has also filed an application to condone the delay to set aside the O.A.No.1303 of 2012 and, therefore, the writ petition will have to be dismissed.

5. We are not concerned with the pending application filed. In any case, the ultimate object of the petitioner is to restore O.A.1303 of 2013. Technicalities should not be allowed to defeat substantial justice. The fact that the petitioner is one having

physical impairment is not in dispute. The reasons stated in the affidavit by the petitioner for not attending the Court earlier are also not disputed. Admittedly, there is also a similar matter pending before the Tribunal.

6. Considering the above, we are inclined to set aside the order under challenge with a direction to the Central Administrative Tribunal to decide O.A.No.1303 of 2013 on merit. We make it clear that this order is subject to the payment of costs of Rs.5,000/-, payable by the petitioner to the learned counsel for respondents 2 to 4 within a period of two weeks from the date of receipt of a copy of this order. We may note that the petitioner is not certainly diligent in pursuing the case.

7. Writ Petition stands allowed accordingly. Taking into consideration the long pendency of O.A.No.1303 of 2013, which has been pending due to the conduct of the petitioner, we direct the Central Administrative Tribunal, to dispose of the same within a period of four months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The Central Administrative Tribunal
Chennai Bench,
Chennai - 600 104.

- 2.The General Manager,
Armoured Vehicles Headquarters,
Avadi, Chennai - 600 054.

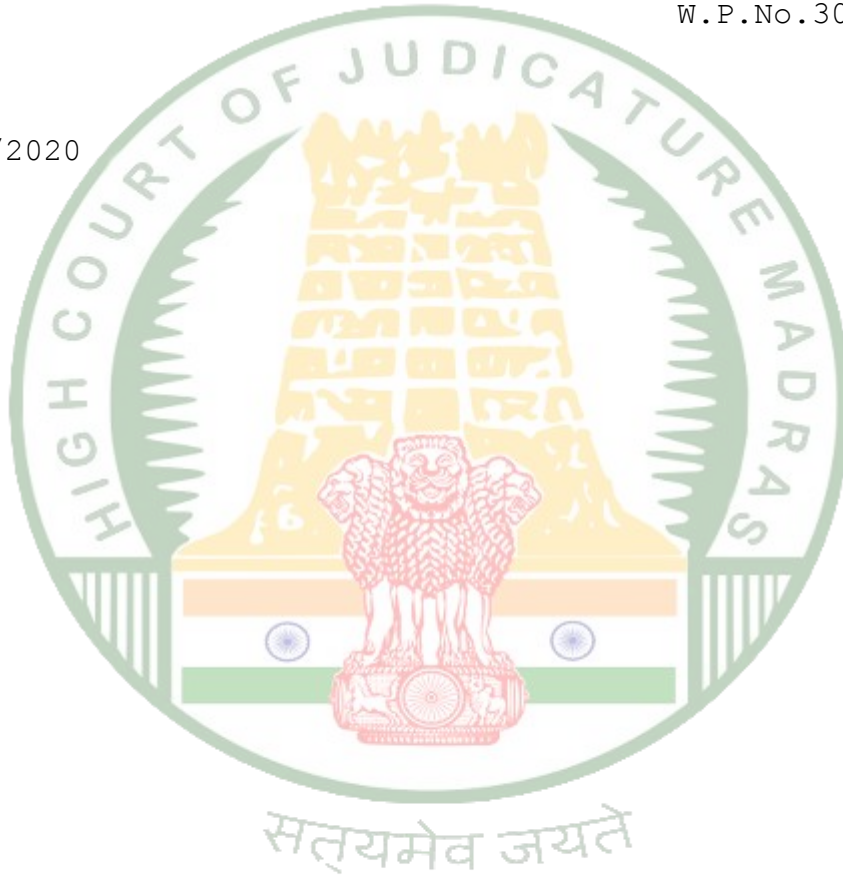
- 3.The Additional Director/
Appellate Authority,
D.G.O.F,
YF Group Headquarters,
G.T.Road, Kanpur.

4.The Under Secretary,
Union of India,
Ministry of Defence,
Ministry of Defence Production,
New Delhi.

+lcc to Mr.R.Prabakaran, Advocate Sr.20992

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