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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 29.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P. No.20961 of 2021

R.Srinivasan

.. Petitioner

Versus

1. Union of India
Rep. by the Senior General Manager,
Heavy Vehicles Factory,
Avadi, Chennai 600 054.
2. The Additional Director General/AV,
AV Head Quarters, Avadi,
Chennai 600 054.
3. Ordinance Factory Board,
Rep. By Chairman,
No.10-a, S.K.Bose Road,
Kolkatta 700 001.
4. The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai 600 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records pertaining to the order passed in O.A.No.723 of 2016, dated 19.12.2019 on the file of fourth respondent and quash the same.

For petitioner : Mr.R.Rajesh Kumar

For respondents
for RR1 to 3 : Mr.G.Ilangovan



ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

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The Writ Petition is heard through video conferencing.

2. This Writ Petition is filed to set aside the order passed in O.A.No.723 of 2016, dated 19.12.2019 by the Central Administrative Tribunal, Madras Bench, wherein, the petitioner sought for direction to the first respondent to grant all consequential benefits including monetary benefits and all allowances from the date of promotion of the applicant as Chargeman (NT/Stores), i.e., 01.01.2009 along with 12% interest.

3. The facts in nutshell leading to filing of the Writ Petition would run thus:-

The petitioner was originally appointed as Machinist "Semi Skilled" in Heavy Vehicles Factory at Avadi, Chennai. Subsequently, he was promoted as Machinist "Skilled" and Machinist "Highly Skilled". In 2008, the petitioner appeared in the Limited Departmental Competitive Examination (LDCE) for the post of Non-Technical Chargeman other than Stores (Chargeman (NT-OTS)) and Non-Technical Chargeman Stores (Chargeman (NT-Stores)). The result was published on 21.07.2008, wherein, the petitioner obtained total marks of 141 and 130.25 respectively and his rank in the merit list was twelfth. Subsequently, the Ordinance Factory Board, the third respondent herein, directed the Ordinance Factory Institute for Learning, Avadi to check the answer sheets and to make a fresh list. A fresh list was made ready and the petitioner secured total marks of 154.5 and 142.75 respectively and the position of the petitioner has been changed and his ranking list was fifth and seventh respectively. As per the initial mark list for Chargeman (NT-Stores), one S.Jayapal was placed in the fifth position and he was promoted to the post of Chargeman (NT-Stores) vide, order dated 01.01.2009. After the revised mark list, the said Jayapal was brought down from ninth rank to tenth rank. Accordingly, the first respondent issued show cause notice to the said Jayapal to revert back his position from Chargeman (NT-Stores). The show cause notice dated 20.01.2010 was challenged by the said Jayapal in O.A.No.75 of 2010 before the Central Administrative Tribunal, Madras Bench and an interim stay was granted on 28.01.2010.

4. The petitioner filed O.A.No.871 of 2010 before the CAT, Madras Bench, challenging the promotion order dated 01.01.2009 and sought for consequential benefits. The Tribunal allowed O.A.No.75 of 2010 while dismissing O.A.No.871 of 2010. However, the order of the Tribunal was reversed by this Court in



W.P.Nos.26731 and 26732 of 2011 and a direction was issued to the authorities to consider the case of the petitioner and grant promotion to him as Chargeman (NT-Stores) with effect from 01.01.2009 and consequential benefits.

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5. Since the petitioner was notionally promoted to the post of Chargeman (NT-Stores) from 01.01.2009 vide Factory Order Part-II No.1862, dated 26.07.2012 with monetary benefits from the date of promotion to the higher post of Chargeman (NT-Stores), i.e., 26.07.2012, the petitioner in O.A.No.723 of 2016, sought for all consequential benefits including monetary benefits from 01.01.2009. The Tribunal following the ratio laid down by the Hon'ble Apex Court in Paluru Ramkrishnaiah and others vs. Union of India and another reported in AIR 1990 AIR 166 dismissed the application of the petitioner and held that the petitioner is not entitled for monetary benefits. The relevant paragraph is extracted hereunder:

"It is the settled service rule that there has to be no pay for no work i.e., a person will not be entitled to any pay and allowance during the period for which he did not perform the duties of a higher post although after due consideration he was given a proper place in the gradation list having deemed to be promoted to the higher post with effect from the date his junior was promoted. So the petitioners are not entitled to claim any financial benefit retrospectively. At the most they would be entitled to re-fixation of their present salary on the basis of the notional seniority granted to them in different grades so that their present salary is not less than those who are immediately below them."

6. It is an admitted fact that though the petitioner was promoted to the post of Chargeman (NT-Stores) from 01.01.2009, he assumed charge and responsibilities and performed his duties of Chargeman (NT-Stores) with effect from 26.07.2012 only. Hence, we are of the opinion that the Tribunal has rightly rejected the case of the petitioner. We find no reason to interfere with the order of the Tribunal. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

pvs



To

1. The Senior General Manager,
Union of India
Heavy Vehicles Factory,
Avadi, Chennai 600 054.
2. The Additional Director General/AV,
AV Head Quarters, Avadi,
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3. The Chairman,
Ordinance Factory Board,
No.10-a, S.K.Bose Road,
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4. The Registrar,
Central Administrative Tribunal,
Madras Bench,
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+1cc to Mr.G.Ilangovan, Advocate, S.R.No.50602

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GPL (CO)
SU(15/11/2021)