

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-408-CWP-2021 in/and
CWP-183-2021 (O&M)
Date of Decision : 14.1.2021

Union of India and others

....Petitioners

vs.

Central Administrative Tribunal and another

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Pankaj Gupta, Advocate
for the petitioners-UOI.

Mr.Rohit Seth, Advocate
for respondent No.2.

AJAY TEWARI, J. (Oral)

CM-408-CWP-2021

This is an application for placing on record written statement
by respondent No.2.

For the reasons recorded, the same is allowed and written
statement is taken on record.

Main case

1. This petition has been filed under Article 226/227 of the
Constitution of India praying for issuance of a writ in the nature of
certiorari/mandamus for quashing of the orders dated 13.8.2019 (Annexure
P-1) passed by respondent No.1-Central Administrative Tribunal
Chandigarh Bench (for short 'the Tribunal) in O.A. No. 060/00496/2017
whereby the enquiry proceedings, penalty order, appellate order and review

orders regarding respondent No.2 passed by the petitioners have been quashed and set aside and the matter has been remitted back to the petitioners to conduct the inquiry proceedings.

2. Respondent No.2 had challenged his dismissal and the inquiry proceedings. The Tribunal held that non-translation of deposition from Tamil to English had caused prejudice to respondent No.2 and had set aside the order of dismissal and had given liberty to the petitioner to proceed fresh.

3. On the last date, the following order was passed :-

*“Senior Counsel for the petitioners states that respondent No.2 never raised the issue of not being familiar with Tamil language at the appropriate stage and therefore the matter is covered by the decision of the Supreme Court in **S.Dhanasekaran Vs. The Commandant & anr., passed in Civil Appeal No.7020 of 2019** decided on 5th September, 2019.*

Notice of motion to respondent No.2.

Service upon respondent No.1 is dispensed with.

Let dasti notice be issued to Sh.Rohit Seth, Advocate who had filed the caveat for 14.01.2021.”

4. Today, learned counsel for respondent No.2 has argued that the assertion that respondent No.2 never raised the issue of lack of knowledge of Tamil is manifestly incorrect and has pointed out to page 147 (Annexure P-2) wherein this fact has been specifically recorded by the Enquiry Officer. However, learned counsel for the petitioners has countered by arguing that once the Defence Assistant was an Officer of the rank of Deputy SPO who was fluent in Tamil language it was not enough for respondent No.2 to have merely alleged that he did not know Tamil language. He would have to show that the Defence Assistant did not

adequately explain to him the true import of the depositions, and therefore without having shown prejudice, the mere fact he did not know Tamil language could not justify the order of the Tribunal.

5. Counsel for respondent No.2 has further argued that even on merits the respondent No.2 had a very good case but the Tribunal did not go into that aspect.

6. In the circumstances, it has been agreed before us that order of the Tribunal be set aside and remanded back to the Tribunal to pass a fresh order wherein all the contentions of the respondent No.2 be considered.

Ordered accordingly.

7. Petition stands disposed of in the above terms.

8. Since the main case has been decided, the pending miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

14.1.2021
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No