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IN THE HIGH COURT OF JUDICATURE OF MADRAS

ORDERS RESERVED ON : 01.12.2021

ORDERS PRONOUNCED ON : 01.02.2022

CORAM:

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

W.P.Nos. 7889 of 2020 and 4929 of 2021
and
W.M.P.Nos.9316 of 2020 and 12325 of 2021

W.P.No.7889 of 2020

I.Ganapathy

...Petitioner

Vs

1. The Central Administrative Tribunal,
Chennai Bench, Represented by its Registrar.

2.The Union of India,
Represented by the Secretary to Government,
Department Information & Publicity,
Government of Puducherry,
Puducherry.

3.The Director of Information & Publicity,
Government of Puducherry,
Puducherry.

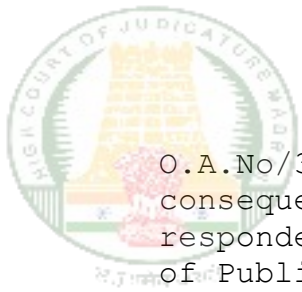
4.M.Dhanasekaran

5.J.Kumaran

6.R.Vassandhan

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ, order or direction more so in the nature of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in relation to the order made in



O.A.No/310/00772/2017 dated 10.12.2019 and quash the same and consequently direct the 3rd respondent to place the 6th respondent/applicant below the 5th respondent in the seniority of Public Relations Assistant.

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For Petitioner : Mr.M.R.Thangavel
For R1 : Tribunal
For R2 & R3 : Mr.R.Syed Mustafa
Addl. Govt. Pleader
(Pondy)
For R4 : Mr.D.Muthukumar
for Paul and Paul
For R5 : Notice served
No appearance
For R6 : Mr.P.Suresh

W.P.No.4929 of 2021

M.Dhanasekaran

..Petitioner

Vs.

1. The Central Administrative Tribunal,
Chennai Bench, Represented by its Registrar.

2.The Union of India,
Represented by the Secretary to Government,
Department Information & Publicity,
Government of Puducherry,
Puducherry.

3.The Director of Information & Publicity,
Government of Puducherry,
Puducherry.

4.I.Ganapathy

5.J.Kumaran

6.R.Vassandhan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ, order or direction more particularly a Writ of Certiorarified Mandamus, after calling for the



connected records leading to the issue of the impugned order dated 10.12.2019 passed by the 1st respondent in O.A.No.772 of 2017 and quash the same and consequently direct the 3rd respondent to place the 6th respondent below the 5th respondent in the seniority of Public Relations Assistant.

For Petitioner : Mr.D.Muthukumar
for Paul and Paul

For R1 : Tribunal

For R2 & R3 : Mr.R.Syed Mustafa
Addl. Govt. Pleader
(Pondy)

For R4 & R5 : Notice served
No appearance

For R6 : Mr.P.Suresh

COMMON ORDER

V.SIVAGNANAM, J.

In these writ petitions, the petitioners have challenged the order in O.A.No.772 of 2017 dated 10.12.2019 passed by the 1st respondent and sought consequential direction to the 3rd respondent to place the 6th respondent below the 5th respondent in the seniority of Public Relations Assistant.

2.The learned counsel for the petitioners submitted that the 6th respondent/R.Vassandhan had applied for the post of Public Relation Assistant. But, the department had not considered him. Therefore, he filed O.A.No.233 of 2001 before the Central Administrative Tribunal, Chennai branch, seeking a direction to consider him, which was allowed by the Tribunal by its order dated 10.01.2002. Assailing this order, the Department filed W.P.No.15485 of 2002 before this Court, which was dismissed by its order dated 01.11.2007. Aggrieved by this order, Department preferred S.LP Civil No.24472 of 2008 before the Hon'ble Supreme Court, which was also dismissed by its order dated 10.01.2017. Thereafter, the Department issued an appointment order to the 6th respondent on 09.02.2017. In pursuance of that order, he joined duty on 15.02.2017 in the existing vacancy. Thereafter, the 6th respondent filed O.A.No.772 of 2017 before the Central Administrative Tribunal, Madras bench, seeking for retrospective appointment from 2002 and the said O.A was allowed by the Central



Administration Tribunal by its order dated 10.12.2019 without issuing notice to the petitioners, who were respondents 3 and 4 namely M.Dhanasekaran and I.Ganapathy and 5th respondent/J.Kumaran. The Tribunal had not considered the merit of the objection raised by the Department and had not heard the petitioners who will be affected person and contesting respondents in the original application. In consequence of the order, of the Central Administrative Tribunal, the Department provided most senior to the 6th respondent with effect from 10.01.2002. The 6th respondent is not entitled to get retrospective appointment from 10.01.2002. The learned counsel reiterated other grounds raised in the grounds of Writ Petitions and thus, pleaded to set aside the order passed by the Central Administrative Tribunal in O.A.No.772 of 2017 on 10.12.2019.

3.The learned counsel appearing for the respondents supported the order of the Administrative Tribunal but, failed to show as to whether notice was served to these petitioners while deciding the matter before the Administrative Tribunal.

4.Heard the learned counsel for the parties and perused the materials available on record.

5.We have considered the matter in the light of the arguments placed by the learned counsel for the parties.

6. A perusal of records indicates that the 6th respondent/R.Vassandhan was appointed as Public Relation Assistant on 15.02.2017 in the existing vacancy as per the order of the Central Administrative Tribunal in O.A.No.233 of 2001, which was confirmed by this Court in W.P.No.15485 of 2002 and also confirmed by the Hon'ble Supreme Court in SLP Civil No.24472 of 2008. Thereafter, the 6th respondent/ R.Vassandhan filed this impugned O.A.No.772 of 2017 and thereby sought the relief of fixing the seniority as Public Relation Assistant with effect from March 2001 above the petitioner and the respondents 4 and 5 herein. The Tribunal allowed the O.A as prayed for. But, no notice was sent to the petitioner and the respondents 4 and 5 herein. The petitioners and the respondents 4 and 5 herein are the respondents in the O.A.No.772 of 2017 as respondents 3 to 5. During the course of the arguments, the learned counsel for the petitioners submitted that notice was not served on them. Without notice and hearing their objections, the Central Administrative Tribunal allowed the claim of the 6th respondent herein, which is against the principles of natural justice. The order of the Tribunal without issuing notice to the persons, who have been prejudicially affected by impugned order, is unsustainable. The



argument of the learned counsel appearing for the petitioners cannot be rejected in this aspect.

7. The seniority is a civil right, which is an important and vital role to play in once service carrier, so that determination of seniority is a vital aspect in the service carrier of an employee. His future promotion is dependent on this. According to the petitioners, they were promoted as Public Relation Officer on 06.03.2007, 10 years prior to the appointment of the 6th respondent and hence, the 6th respondent will be placed as a junior to the petitioner. Therefore, the determination of seniority must be based on some principles which are just and fair, after hearing the objection of the petitioners and giving a fair chance to them to place their objection before the Tribunal. A fair procedure is required to be followed by the Tribunal, while making adjudication about the seniority. The procedural fairness generally requires the persons, who are liable to be directly affected by proposed decisions, be given adequate notice of what is proposed, so that, they may be in a position to make representation on their own behalf. This is the mandate of Articles 14 and 16 of the Constitution of India.

8. In view of the above, the order passed in O.A.No.772 of 2017, dated 10.12.2019, cannot be countenanced and it is liable to be set aside.

9. In the result, both the Writ Petitions are allowed and the impugned order made in O.A.No.772 of 2017, dated 10.12.2019 is hereby set aside and the matter is remanded back to the Tribunal with a direction to issue notice to all the respondents and after hearing all the parties, decide the case on merits. It is needless to mention that the petitioners shall enter their appearance in O.A.No.772 of 2017 and shall cooperate for early disposal of the case. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar

vsn

To

1.The Registrar
The Central Administrative Tribunal,
Chennai Bench.



2.The Secretary to Government,
The Union of India,
Department Information & Publicity,
Government of Puducherry,
Puducherry.

3.The Director of Information & Publicity,
Government of Puducherry,
Puducherry.

+lcc to M/s.Paul & Paul, Advocate SR.No.6561

+lcc to Mr.C.Anbu, Advocate SR.No.6057

+lcc to the Government Pleader(Puducherry), SR.No.6199, 6198

W.P.Nos.7889 of 2020 & 4929 of 2021
and

W.M.P.Nos.9316 of 2020 and 12325 of 2021

EV(CO)
CB(18/02/2022)