



W.P.No.12807 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 24.07.2023	Pronounced on 28.07.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No.12807 of 2012
and M.P.No.1 of 2012

The Superintendent of Post Offices,
Department of Post,
Dindigul Division,
Dindigul.

... Petitioner

Vs.

1.The Presiding Officer,
The Central Govt. Industrial Tribunal cum
Labour Court,
Chennai.

2.P.Thennasai

... Respondents

Prayer: Writ Petition has been filed under Article 226 of Constitution of India, to issue a writ of Certiorari, calling for the records of the award passed in ID.No.25 of 2010 dated 23.08.2011 passed by the 1st respondent and quash the same.

For Petitioner : Mr.J.Madanagopal Rao
Senior Standing Counsel

For Respondents
For R1 : Court

For R2 : Mrs.S.S.Jothirani



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ORDER

The Postal Department has filed the above writ petition challenging the award passed by the 1st respondent/the Central Government Industrial Tribunal cum Labour Court in ID No.25 of 2010 dated 23.08.2011.

2. The 2nd respondent herein was appointed as Extra Departmental Branch Post Master, (Gramin Dak Sevak Branch Post Master) on 14.12.1996 under stop gap arrangement at Vadipatti Branch Post Office and he was relieved from the said post on 05.08.1998 and without issuing any notice or notice of termination, a new person, who was recruited from Employment Exchange has been posted to the said post and hence, he has raised the Industrial Dispute.

3. The Government of India, Ministry of Labour had issued an order vide order No.L-40011/3/2007-IR(DU) dated 17.05.2010 thereby referred the Industrial Dispute to the Central Government Industrial Tribunal cum Labour Court, Chennai, and the Schedule mentioned in that order is as follows:



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“Whether the action of the management of Senior Superintendent of Post Offices, Dindigul in termination of services of Sri P.Thennasi w.e.f. 05.08.1998 is legal and justified? If not, what relief the workman is entitled to?”

4. Before the 1st respondent/ the Central Government Industrial Tribunal, petitioner/2nd respondent herein has contended that he is a qualified candidate for the post of Extra Departmental Branch Post Master (GDS Branch Post Master) and was appointed as such at I.Vadipatti, A/W Kallimadayam S.O., Dindigul Division on 14.12.1996 as an employment exchange registered hand. On 17.02.1997, his appointment was confirmed w.e.f. from 14.12.1996. He has been working in the said post without any break and was brought under the Role of the regular employees. Surprisingly, he was relieved from service w.e.f., 05.08.1998 mentioning a Memo No.BII/IV/dated 25.03.1998 in the relieving report. He has not been issued any order or notice of termination disclosing any reason. There was no memo of charges issued or any enquiry conducted against him, if the termination was on any charges. It is in violation of Article-311(ii) of the Constitution and against the principles of natural justice. He had rendered more than 240 days of service and there is unfair labour practice practiced on



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him. It is also in violation of Section-25F of the ID Act.

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5. The Postal Department has filed counter affidavit before the Tribunal stating that in view of the earlier person one S.Periyasamy, working in Extra Departmental Branch, BPM I.Vadipatti BO was placed under suspension, the 2nd respondent was permitted to work as a stop gap arrangement temporarily with effect from 14.12.1996 and it is not as per the rules. The Provisional order of appointment was issued on 17.12.1987, informing that the provisional appointment would be terminated at any time, without assigning any reason and the petitioner has no claim for regular appointment.

6. The Tribunal on consideration of oral and documentary evidence has come to the conclusion that though in the appointment order it is worded as 'provisional appointment order', it is only a stop gap arrangement and the Tribunal has also found that the 2nd respondent has completed 240 days of continuous duty during the period, which is a duration not within less than 12 calendar months and therefore, his case falls under Section-25F of the Industrial Disputes Act. Accordingly, the Tribunal held that the termination of the 2nd respondent herein is bad in law. However, taking into consideration the entire



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situation, the Tribunal has not awarded any reinstatement or continuity of service, but awarded only compensation of Rs.50,000/-.

7. Aggrieved against the compensation of Rs.50,000/- in lieu of reinstatement with other benefits, the Postal Department has preferred this writ petition.

8. Mr.J.Madanagopal Rao, learned Senior Standing Counsel for the petitioner would contend that based upon Ex.M2/the petitioner's representation, he was permitted to work as GDS BPM at I.Vadipatti Post Office, purely under stop gap arrangement temporarily with effect from 14.12.1996 afternoon, as could be seen from Ex.M7/the Provisional Order issued by the petitioner herein. It also appears from Ex.M7 and Ex.M8 that, consequent to the reinstatement of the regular incumbent i.e., S.Periyasmy, vide office memo dated 22.01.1998, the 2nd respondent herein appears to have been relieved from the said post on 05.08.1998 afternoon.

9. Thus, this Court finds that on a combined reading of Ex.M3 and Ex.M8, the 2nd respondent herein appears to have worked in the said post from 14.12.1996 to 05.09.1998. The Government of India, Ministry of Labour, has



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rejected the request of the 2nd respondent to refer the conciliation on the ground that the workman raised the dispute belatedly nearly after 8 years from the date of alleged disengagement. As such, the matter cannot be construed as an industrial dispute. Pursuant to the order passed by this Court in W.P.No.5440 of 2010, Ministry of Labour was directed to refer the case to the competent jurisdictional Central Government Industrial Tribunal cum Labour Court for adjudication in accordance with law. Consequent to that, the case was referred to the 1st respondent herein on the above terms as stated supra. The Central Industrial Tribunal cum Labour Court/ the 1st respondent herein by order dated 23.08.2011 has held that the action of the Management in termination of the petitioner's service is illegal. However, in lieu of reinstatement with other benefits, the 1st respondent has ordered Rs.50,000/- as compensation.

10. The learned Senior Standing Counsel for the Central Government relied upon the GDS (Conduct and Employment) Rules. The relevant portion of the above said Rules is extracted hereunder:

“8.Termination of Employment

(1) The employment of a Sevak who has not already rendered more than three years' continuous employment from the date of his



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appointment shall be liable to termination at any time by a notice in writing given either by the Sevak to the Appointing Authority or by the Appointing Authority to the Sevak;

(2) The period of such notice shall be one month:

Provided that the employment of any such Sevak may be terminated forthwith and on such termination, the Sevak shall be entitled to claim a sum equivalent to the amount of Basic Time Related Continuity Allowance plus Dearness Allowance as admissible for the period of the notice at the same rates at which he was drawing them immediately before the termination of his employment, or, as the case may be, for the period by which such notice falls short of one month.

Note.-Where the intended effect of such termination has to be immediate, it should be mentioned that one month's Time Related Continuity Allowance plus Dearness Allowance as admissible is being remitted to the Sevak in lieu of notice of one month through money order."

Hence, the employee is not entitled for any notice. If at all the period of such notice will be one month on either side and in lieu thereof, he is entitled for



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Basic Time Related Continuity Allowance plus Dearness Allowance as admissible for the period of notice at the same rates on which he was drawing them immediately before the termination.

11. Taking note of the salary of the 2nd respondent and the Rule 8 of the GDS (Conduct and Employment) Rules, I find that a sum of Rs.20,000/- awarded as compensation will meet the ends of natural justice. Accordingly, the writ petition is partly allowed and the order of the 1st respondent / the Central Government Industrial Tribunal cum Labour Court stands modified to that limited extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order
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RMT.TEEKAA RAMAN.J,

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To



W.P.No.12807 of 2012

The Presiding Officer,
The Central Govt. Industrial Tribunal cum Labour Court,
Chennai.

**Pre-delivery Judgment made in
W.P.No.12807 of 2012**

Dated: 28.07.2023