



WEB COPY



WP No.9449 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP No.9449 of 2020

Ramachandran

... Petitioner

vs

1. Union of India,
Represented by the Director-General Doordarshan
Prasar Bharathi, Doordarshan Bhavan
Copernicus Marg,
New Delhi-110 001.

2.The Director,
Doordarshan Kendra
Swami Sivandar Salai,
Chennai-600 005.

3.The Deputy Director-General
Doordarshan Kendra
Swami Sivanda Salai
Chennai 600 005.



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4. The Deputy Director (Administrator)
Directorate-General of Doordarsan
Doordarshan Bhavan
New Delhi.

5. The Registrar
Central Administrative Tribunal
Chennai 600 104.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to the order dated 26.03.2019 in OA No.1365 of 2018 of the fifth respondent to quash the same and to issue consequential directions to the respondents 1 to 4, designate the petitioner as a Group 'D' employee and to regularize his services as such with retrospective effect from 01.09.1993 and to grant all consequential benefits to the petitioner.

For the Petitioner :Mr.Ravi

For the Respondents :Mr.T.L.Thirumalaisamy
Central Government Standing Counsel



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ORDER

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(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

The petitioner has filed this writ petition challenging the order dated 26.03.2019 passed by the Central Administrative Tribunal in OA No.1365 of 2018.

Brief facts of the case:

2.1. The petitioner was initially appointed as Casual Labour on 01.09.1993 in the respondent Department and by proceedings of the second respondent dated 12.01.1999, the petitioner was conferred with temporary status with effect from 01.09.1993. A proposal for regularization of Casual Labour (Temporary Status) was under active consideration in the Department by the various authorities. It is stated that just one day prior to the order relieving the petitioner from service, the first respondent had issued an order dated 06.08.2013 conveying the approval of the competent authority for regularization of the petitioner against available vacancy in the erstwhile Group D post in the respondent Department. However, the third



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respondent by its proceedings dated 07.08.2013 dispensed with the service of the petitioner with effect from 30.06.2013 by merely mentioning as causal labour conferred with temporary status.

2.2. Aggrieved by the said dated order 07.08.2013, the petitioner had filed an original application in OA No.12 of 2014 before the Tribunal. The Tribunal, by order dated 23.09.2015, had disposed of the said original application with a direction to the respondent Department to consider the case of the petitioner for regularization of his services as Group D. Thereafter, the fourth respondent by proceedings dated 02.03.2016, had stated that the petitioner is not eligible for regularization. Aggrieved by the orders dated 07.08.2013 and 02.03.2016, the petitioner had filed an original application in OA No.1365 of 2018. The Tribunal, by order dated 26.03.2019, dismissed the said original application by holding as follows:

'In the above circumstances, I am of the view that it is not possible for this Tribunal to go into the same issue all over again in a fresh OA when it has already been considered by this Tribunal in OA No.12/2013 on the same grounds as agitated in this OA. The OA is barred by the principles of res



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judicata. OA is accordingly dismissed.' Aggrieved by the said order dated 26.03.2019, passed by the Tribunal, the petitioner has filed the present writ petition before this Court.

3. The short point involved in the present writ petition is whether the instant OA is barred by principles of res judicata. It is an admitted fact that the petitioner has filed the original application before the Tribunal in OA No.1365 of 2018 challenging the order dated 07.08.2013 and subsequent order dated 02.03.2016 passed by the respondent Department rejecting the claim of the petitioner. The said OA came to be dismissed by the Tribunal on a simple ground that the petitioner had filed OA No.12 of 2023 and the same was disposed of with a direction to the respondent Department to consider the case of the petitioner for regularization of service as Group D. Relying on the said order, the Tribunal came to a conclusion that the same issue was raised by the petitioner in the aforesaid OA and now for the same issue, the petitioner has filed a fresh OA before the Tribunal. Therefore, the Tribunal held that it cannot go into the same issue all over again in a fresh OA when such issue had already been considered by the Tribunal in OA



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No.12 of 2013 on the same grounds and therefore, the instant OA was dismissed by the Tribunal on the ground that it is barred by the principles of res judicata.

4. After going through the earlier order passed by the Tribunal in OA No. 12 of 2023 and the subsequent order passed by the Tribunal in the instant OA in OA No.1365 of 2018, it is found that in the earlier OA, a direction was given by the Tribunal to the respondent Department to consider the case of the petitioner to regularize the services and pass orders within time limit. Pursuant to the said order, the fourth respondent had passed an order dated 02.03.2016 by rejecting the claim of the petitioner for regularization. Challenging the said rejection order passed by the fourth respondent, the petitioner had filed the instant OA. Therefore, the reason as stated in the order passed in the instant OA that the instant OA is barred by the principles of res judicata is unacceptable and therefore, we are interfering with the order of the Tribunal and remitting the matter back to the Tribunal for fresh consideration.



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5. Learned counsel for the respondents may not have any objection or dispute in the facts of the case as found in the said order.

6. In the light of the above, we are inclined to pass order as follows:

i) The impugned order dated 26.03.2019 in OA.No.1365 of 2018 is set aside.

ii) The Tribunal is directed to consider afresh and pass orders as expeditiously as possible, on its own merits, within a period of twelve weeks from the date of receipt of a copy of this order.

iii) Learned counsel for the petitioner is permitted to file additional documents, if any before the Tribunal, within a period of one week from the date of receipt of a copy of this order.

7. With the above directions, the writ petition stands allowed. There will be no order as to costs.

[D.K.K., J.] [P.D.B., J.]
20.11.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn



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