



W.P.No.22872 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

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and
W.M.P.No.21900 of 2022

- 1.Union of India,
Rep. by its Secretary
Ministry of Labour, Government of India,
Shram Sakthi Bhavan,
Rafi Marg, New Delhi – 110 001.
- 2.The Director
Central Board for Workers Education,
North Ambazari Road, Nagpur – 440 003.
- 3.The Zonal Director (SZ)I/C,
Central Board of Workers Education
Garment Complex,
Thiru Vi.Ka. Industries Estate,
Guindy, Chennai – 600 032.
- 4.The Regional Director,
Central Board for Workers Education,
11, 2nd Floor, Arul Malar Convent Road,
K.K.Nagar, Madurai-620020.

.. Petitioners

Vs.

- 1.The Registrar,
Central Administrative Tribunal,
High Court Campus, Chennai-104.



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2.P.Moorthy

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of 1st respondent in O.A.No.1605 of 2017 dated 05.11.2018 filed by the 2nd respondent and quash the same.

For Petitioners : Mr.C.Kulanthaivel

For R2 : Ms.S.Vinodha

For R1 : Tribunal

ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)

The present Writ Petition is filed to call for the records of 1st

respondent in O.A.No.1605 of 2017 dated 05.11.2018 filed by the 2nd respondent and quash the same.

2. Heard Mr.C.Kulanthaivel, learned counsel appearing for the petitioner as well as Ms.S.Vinodha, learned counsel appearing for the 2nd respondent and perused the entire materials on record.

3. The learned counsel appearing for the petitioners submitted that the 2nd respondent was appointed as an Education Officer on 30.05.1989 by the 3rd petitioner herein. The 2nd respondent made a representation dated 08.12.2015 to the Director, Central Board of Workers Education,



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Nagpur for promotion to the post of Regional Director. Thereafter, the 2nd respondent has made another representation dated 18.04.2016 for promotion. Thereafter, the 2nd respondent has also filed O.A.No.1162 of 2016 seeking promotion as per the Seniority and the Tribunal by the order dated 30.11.2016 directed the authorities to consider the representation dated 18.04.2016 and pass appropriate order in accordance with law and as per rules. The Department by the order dated 06.10.2017 rejected his request. Hence, the 2nd respondent has filed O.A.No.1605 of 2017 for the following relief:-

“To call for the records of the order in No.A20011/156/2001 dated 06.10.2017 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to conduct the DCP to give promotion to the applicant and pass such further or other orders as this Hon'ble tribunal may deem to it fit and property in the facts and circumstances of the case and render justice.”

4. The petitioner herein filed a detailed counter affidavit and opposed the same and submitted that the 2nd respondent is not entitled to the relief sought in the above said OA.

5. At the time of hearing of OA before the 1st respondent, the



learned counsel appearing for the 2nd respondent submitted that the similar issue was decided by the Central Administrative Tribunal, Bangalore Bench in O.A.Nos. 170/01738 and 01739/2016 wherein the Tribunal directed the petitioners herein to consider the representation of the employee therein and on the employee giving undertaking that he will repay the excess amount if any, if WPTC No.85/2010 pending before the High Court of Kolkatta decided against the applicant therein and prayed for the same relief to be passed in O.A.No.1605 of 2017 filed by second respondent also. The learned counsel appearing for the petitioners admitted before the Tribunal order passed by the Central Administrative Tribunal, Bangalore Bench in O.A.Nos. 170/01738 and 01739/2016.

6. Considering the said order, without deciding the issue on merits, the Tribunal directed the petitioners to consider the representation of second respondent for MACP upgradation pending orders passed in W.P.C.T.No.85 of 2010 pending on the file of High Court of Calcutta subject to certain conditions. Challenging the said order, the petitioners have filed the present writ petition.

7. The learned counsel appearing for the petitioners raised various



grounds as to how second respondent is not entitled to MACP benefits and further submitted that very same order was challenged by the petitioners before the High Court of Karnataka at Bengaluru by filing Writ Petition No.51119/2019 (S-CAT) and the order passed in O.A.Nos. 170/01738 and 01739/2016 was set aside by the High Court of Karnataka at Bengaluru by the order dated 25.02.2021.

8. The learned counsel appearing for the 2nd respondent submitted that the 2nd respondent has given a letter to the petitioners stating that he will not claim any relief based on the order passed by the Tribunal in O.A.No.1605 of 2017.

9. In view of the fact that the Tribunal relied on the order passed by the Central Administrative Tribunal, Bangalore Bench in O.A.Nos. 170/01738 and 01739/2016 wherein the Tribunal allowed the applications directing the petitioners herein to consider the representation of the applicant therein and the said order was set aside by the High Court of Karnataka at Bengaluru by the order dated 25.02.2021 in Writ Petition No.51119/2019 (S-CAT) and submission of learned counsel appearing for second respondent that he will not claim any relief based on



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the order passed by Tribunal in O.A.No.1605 of 2017, the impugned order passed by the 1st respondent in O.A.No.1605 of 2017 dated 05.11.2018 is set aside.

10. In the result, the Writ Petition is allowed. No costs.
Consequently, the connected miscellaneous petition is closed.

(V.M.V., J) (R.H., J)
30.01.2023

Index : Yes / No
Neutral Citation : Yes / No

dm



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To

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The Registrar,
Central Administrative Tribunal,
High Court Campus, Chennai-104.



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V.M.VELUMANI, J.
and
R.HEMALATHA, J.

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