



WP No.30149 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP No.30149 of 2023

P.Murugesan

... Petitioner

versus

- 1.The Director of Postal Services,
O/o Postmaster General,
Western Region (TN),
Coimbatore - 641 002.
- 2.The Superintendent of Post Offices,
Nilgiri Division,
Udagamandalam,
Nilgiris District.
- 3.The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai-104.

... Respondents



WP No.30149 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the records of the respondents in connection with the impugned order issued by the third respondent in OA No.352 of 2023 dated 21.02.2023 and quash the same.

For the Petitioner :Mr.R.Dhinesh Kumar
For the Respondents :Mrs.M.E.Sarashwathy
Senior Panel Counsel
for respondent Nos.1 and 2
R3 Tribunal

ORDER

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

The writ petition has been filed challenging the order dated 21.02.2023, passed by the Tribunal in OA No.352 of 2023.

Brief facts of the case:

2.1. According to the petitioner, while he was working in the respondent Department in the post of Gram DakSeva (GDM), a charge memo dated 16.09.2016 was issued by the respondent Department to him for misappropriation. An enquiry officer was appointed, who conducted the enquiry. The enquiry officer did not examine any witness. Though the petitioner informed the enquiry officer about the insistence by the authorities requiring the petitioner to admit the guilt, the enquiry officer also



WP No.30149 of 2023

forced the petitioner to provide the letter of acceptance of guilt.

Consequently, the enquiry officer drawn a proved report dated 25.10.2016 that the charges were proved based on the acceptance made by the petitioner in the preliminary enquiry. Hence the enquiry itself is voidable.

2.2. During the course of enquiry, the petitioner was instructed by the authorities that if the petitioner pays the misappropriated amount with penal interest, he would be discharged from the disciplinary proceedings. The petitioner accepted the proposal and paid the amount of Rs.86,000/- in four installments. Even after the payment made by the petitioner, the respondent department by proceedings dated 01.12.2016, removed the petitioner from service. Challenging the said removal order, the petitioner has filed an appeal before the authority concerned on 20.01.2017 by raising a ground that no witness has been examined and no evidence or material has been placed before the enquiry officer, however charges were held as proved against the petitioner. The respondent/appellate authority, without considering the grounds raised by the petitioner, by order dated 06.04.2017, rejected the appeal.



WP No.30149 of 2023

2.3.Challenging the order passed by the appellate authority, the petitioner has filed an OA before the Tribunal in OA (Diary No.1229 of 2022) along with an application to condone the delay of 1368 in filing the said OA in MA.No.97 of 2023 and an application to condone the delay of 117 days in representing the said OA in MA No.96 of 2023. The Tribunal, by order dated 21.02.2023 dismissed the OA at the SR stage on the ground of limitation and consequently dismissed the said applications and directed the registry to number the OA for record purposes and the said OA was numbered as OA No.352 of 2023. Challenging the said dismissal order, he has filed the present writ petition before this Court.

3. Learned counsel for the petitioner submitted that the petitioner filed an application in MA.No.97 of 2023 to condone the delay of 1368 days in filing the said OA along with an application in MA.No.96 of 2023 to condone the delay of 117 days in representing the said OA before the Tribunal. He further submitted that even though the petitioner has made an attempt to justify the reasons for the delay in filing the original application, the Tribunal has failed to consider the same.



WP No.30149 of 2023

WEB COPY

4. Heard the parties and perused the materials available on record.

5 On perusal of the enquiry report, it is found that the petitioner himself has admitted all the articles of charges levelled against him and he has also given a representation dated 26.09.2016 stating that he had utilized the amount for the treatment of his wife. Further, on perusal of the affidavits filed by the petitioner in support of the applications to condone the delay in filing and representing the said OA., this Court finds that there is no satisfactory explanation given in the said affidavits filed by the petitioner. The order passed by the appellate authority was on 06.04.2017 but the petitioner has filed the said OA on 09.09.2022. After a lapse of five years, he has approached the Tribunal challenging the order passed by the appellate authority.

6. Considering the fact that the petitioner has not furnished any satisfactory explanation for such inordinate delay in filing the said OA, the Tribunal has rightly dismissed OA No.352 of 2023 on the ground of limitation. Therefore, there is no reason to interfere with the said order



WP No.30149 of 2023

dated 21.02.2023 passed by the Tribunal. Consequently, the writ petition stands dismissed. There will be no order as to costs.

WEB COPY

[D.K.K., J.] [P.D.B., J.]
18.10.2023

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



WP No.30149 of 2023

To

1. The Director of Postal Services,
O/o Postmaster General,
Western Region (TN),
Coimbatore - 641 002.

2. The Superintendent of Post Offices,
Nilgiri Division,
Udagamandalam,
Nilgiris District.

3. The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai-104.



WEB COPY



WP No.30149 of 2023

D.KRISHNAKUMAR, J.
and
P. DHANABAL, J.
(mrn)

WP No.30149 of 2023

18.10.2023



WEB COPY



WP No.30149 of 2023