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W.P.No.33890 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

W.P.No.33890 of 2018

S.Athimoolam

...Petitioner

//vs/

1. The Central Administrative Tribunal,
Chennai Bench, rep. by its Registrar,
City Civil Court Building,
High Court Complex, Chennai.

2. The Union of India,
Rep. by the Chief South Officer (P and A),
Head Quarters, Eastern Naval Command,
Naval Base, Visakapattinam

3. The Commanding Officer, INS Kattabomman,
Visakapattinam, Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking to issue Writ of Certiorarified Mandamus, calling for the records of the first respondent in O.A.No.131/2013 dated 24.10.2018 and quash the same and consequently, direct the respondents to reckon the services of the



W.P.No.33890 of 2018

applicant from 01.03.1984 and grant first ACP to him with effect from 09.08.1999 and also grant second ACP with effect from 01.03.2008 with all consequential and attendant benefits.

For Petitioner : Mr.V.Vijay Shankar

for Ms.Anna Mathew

For Respondents : Mr.M.Karthikeyan for second respondent

ORDER

(Order of the Court was delivered by P.B.BALAJI, J.)

This writ petition has been filed by the unsuccessful applicant in O.A.No.131/2013 before the Central Administrative Tribunal, Chennai Bench, in and by which, his prayer to reckon his services from 01.03.1984 and to grant first ACP w.e.f. 09.08.1999 and also to grant second ACP w.e.f. 01.03.2009, was rejected, by order dated 24.10.2018.

2. The above said original application was filed by the writ petitioner herein on the ground that he joined the service as Watchman in the respondent/ Department on 01.03.1984 and subsequently, he was appointed on regular basis as Peon w.e.f. 01.03.1987. It is the further case of the petitioner that the ACP scheme, framed by the Government of India, came



W.P.No.33890 of 2018

into force from 09.08.1999. Though the department has counted the petitioner's services w.e.f. 01.03.1987 and gave the benefits of ACP, later, it was cancelled on the ground that the petitioner had been transferred to the office of the second respondent viz., INS Kattabomman in June 1991 and hence, his services could not be reckoned from that date onwards. In view of the above decision of the department, the petitioner had made a representation to the department. However, there was no proper response to the same. Therefore, the petitioner has moved the Tribunal by filing O.A.No.131/2013 seeking direction to reckon his services w.e.f. 01.03.1984 for the purposes of granting him first ACP w.e.f. 09.08.1989 and second ACP w.e.f. 01.03.2008 which schemes became available after completion of 24 years of services, with all consequential monetary benefits.

3. The Tribunal, after hearing the petitioner and the department, has dismissed the above original application on the ground that the services of the petitioner can be taken into consideration from 1991 alone. Aggrieved by the said order of the Tribunal, the petitioner has filed the present writ petition on the ground that when the petitioner's services had been



W.P.No.33890 of 2018

regularised w.e.f. 01.09.1984, which was his initial date of appointment, then, for the purpose of conferring benefit for the ACP also, his services should be counted from 1984 and not from 1991. It is also the specific case of the petitioner that, despite similar judgments rendered by this Court as well as other Courts, granting relief to the similarly placed persons, like petitioner, the Tribunal has erroneously rejected the original application.

4. We heard Mr.V.Vijay Shankar, learned counsel appearing for the petitioner and Mr.M.Karthikeyan, learned counsel appearing for the second respondent.

5. The short point to be decided in the writ petition is that whether the crucial date to be taken into account, in so far as the services of the petitioner is concerned, for the purpose of conferring ACP benefits or not?

6. It is an admitted fact that initially, the petitioner was appointed as watchman on 01.03.1984 and later he was appointed on regular basis as peon on 01.03.1987. The ACP scheme came into force only from



W.P.No.33890 of 2018

09.08.1999. The department themselves have initially reckoned the services of the petitioner from 01.03.1987, on which date he was appointed on regular basis, and had conferred the benefits of the ACP scheme to the petitioner. However, for the reasons best known to the respondents, subsequently, they have chosen to cancel the said benefits conferred on the petitioner, which was under challenge before the Tribunal.

7. During the course of the argument, it is brought to the notice of this Court that, in an identical circumstances, we have decided the similar matter in W.P.No.24539 of 2019 filed by the Union of India, challenging the granting of benefits to the petitioner by the Tribunal, which came to be dismissed in and by order dated 15.09.2023, holding that the services of the petitioner should be taken from the date of initial appointment for the purpose of awarding ACP benefits. The facts of the case on hand are also identical and following the above decision of W.P.No.24539/2019, dated 15.09.2023, the present writ petitioner deserves to get the relief as prayed in the writ petition. Accordingly, we are constrained to interfere with the order passed by the Tribunal in O.A.No.131/2013 dated 24.10.2018.



W.P.No.33890 of 2018

8. In fine, this writ petition is allowed and the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.131/2013 dated 24.10.2018 is set aside. The respondent/ Department is directed to reckon the services of the petitioner from the date of initial appointment for the purpose of awarding ACP benefits and settle the benefits to him within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

(D.K.K.J.)

(P.B.B.J.)

22.09.2023

Internet: Yes/No
Index : Yes/No
mst

To

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench, City Civil Court Building,
High Court Complex, Chennai.
2. The Union of India,
Rep. by the Chief South Officer (P and A),
Head Quarters, Eastern Naval Command,
Naval Base, Visakapattinam



W.P.No.33890 of 2018

3. The Commanding Officer, INS Kattabomman,
Visakapattinam, Tirunelveli.



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