



WEB COPY



Writ Petition No.2308 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.03.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.2308 of 2019
and W.M.P.No.2278 of 2024**

Parveen Kumar,
Assistant Controller of Patents & Designs
Patent Office Delhi, Boudhiksampada Bhawan,
Plot No.32, Sector 14, Dwarka,
New Delhi – 110 075.

... Petitioner

Vs.

1. The Central Administrative Tribunal,
Chennai Bench,
Rep. By its Registrar,
High Court Complex,
City Civil Court Complex,
High Court, Chennai.
2. Ravikumar Battini
3. Mangannadorasambha
4. Krishna.G.
5. Ramesh Vanaparthi
6. Masthan Vali Nama
7. G.Nagendra
8. Ejjirothu Srihari
9. Anjaneyulu Reddi
10. Pitta Ashok Kumar Reddy
11. The Union of India rep.by
The Secretary to Government,



Writ Petition No.2308 of 2019

WEB COPY

Department of Industrial Police,
Ministry of Commerce & Industry,
Udyog Bhavan, New Delhi – 110 001.

12. The Controller General,
Patents, Designs and Trade Marks,
Boudika Sampada Bhavan,
First Floor, SM Road,
Antop Hill, Mumbai – 400 037.
13. The Director General,
Council of Scientific & Industrial Research
Anusandhan Bhavan, New Delhi – 110 001.
14. Shri Jagadish Kumar Singh
15. Ms.Hardit Kaur
16. Shri. Shahid Anwar
17. Shri Phanishwar Rajwar
18. Shri. Saroj Kumar Singh
19. Shri Sunil Surla
20. Shri. Rajeswar Kr.Kushwaha
21. Shri. Kundan Kumar
22. Shri. Vikas Gupta
23. Shri Arup Garu
24. Shri. Niranjan Kumar
25. Shri Raj Kumar
26. Ms.Anushri Kamble
27. Shri Praveen Kumar
28. Smt.Shraddha Turkar
29. Ms.Sudha Javeria
30. Shri.Vinay Shankar Rai
31. Shri Rajeev Kumar
32. Shri. Ghandeshvar Singh Paikra
33. Ms.Nutishri Lonhare
34. Shri Subhash Kumar Sing
35. Shri Santhosh Kumar Gupta
36. Shri. Md.Jawed Iqbal
37. Shri Ritesh Kumar
38. Shri. Pankaj Patel



Writ Petition No.2308 of 2019

39. Shri. Narendra Kumar
40. Shri. Avinash Pandit Munde
41. Shri Ashfaque Ahmad
42. Shri. Rohit Kumar Mishra
43. Shri. Pradeep Kumar
44. Shri. Manoj G.Somkuwar
45. Shri Sandeep Kumar
46. Shri. Muthu Pandi
47. Shri Jeetendra Singh
48. Shri D.Aniaiah Nayak
49. Shri Srinivasa Chintala
50. Ms.Latika Dawara
51. Shri Janardhana Kotni
52. Shri. Harish Raj
53. Shri. Sreekanth KS
54. Shri Pratap Chandra Barad
55. Shri Debasish Banerjee

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the 1st respondent in its O.A.1111/2016 dated 08.06.2018 and quash the same.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : R1- Tribunal

Mr.Karthik Rajan [R2 & R3]

Mr.K.P.Jotheeswaran [R4 to R10]

Mr.S.Diwakar [R11 & R12]



ORDER

WEB COPY

(Order of the Court was made by R.SURESH KUMAR,J.)

This writ petition has been filed against the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.1111 of 2016 dated 08.06.2018.

2. There is a post called Examiner of Patents in the respondent Department viz., The Controller General of Patents, Designs and Trade Marks. For the year 2012-2013, selection had been made and provisional selection list was issued on 14.01.2013. Thereafter, a draft seniority list was issued on 27.03.2014, in between, the issue was whether the seniority list drawn by them must be on the basis of raw marks obtained by the candidates, who belongs to various subjects or on the basis of derived marks after normalization of various subjects in order to remove the subject bias.

3. Ultimately, the plea raised by the group of selectees, who wanted to implement the normalization exercise since was adopted or accepted, accordingly the normalization exercise undertaken, pursuant to which, a final selection list was issued on 28.05.2015. The said list was



questioned by the group of selectees before the Central Administrative Tribunal and filed the said Original Application.

4. The said Original Application after several hearings posted for final hearing on 07.06.2018, however, on that day, for want of constitution of a Division Bench at the Tribunal, the Tribunal issued a notification stating that some of the cases, which were supposed to be listed for hearing on 07.06.2018 including the present OA were listed in the notification to be adjourned to various dates shown against each of the cases.

5. Accordingly, this OA along with connected MA were directed to be listed for hearing on 12.06.2018.

6. Since the said notification was issued by the Tribunal on 07.06.2018, by which, the OA stood adjourned for hearing on 12.06.2018, the learned counsel for the respondents before the Tribunal were the opinion that the case would be taken up on 12.06.2018.



7. However, on the contrary, the Tribunal preponed the hearing of the case from 12.06.2018 to 08.06.2018 and on that date, the case was heard and orders were passed. Resultantly, the main contesting private respondents, who were the selectees, at whose instance normalization exercise was undertaken and a final seniority list dated 28.05.2015 was issued, was not at all heard up by the Tribunal, however, the Tribunal ultimately set aside the final seniority list dated 28.05.2015 by giving direction to restore the original seniority list, which were prepared of-course pursuant to the ranking of seniority given based on the raw marks.

8. As against the said order passed by the Tribunal dated 08.06.2018, this writ petition had been filed.

9. These factors had been brought before us by Mr.V.Vijay Shankar, learned counsel appearing for the petitioner and we have also heard Mr.Karthik Rajan, learned counsel appearing for contesting respondents and Mr.S.Diwakar, learned Senior Panel Counsel appearing for the Union of India for the official respondents.



10. The learned counsel appearing for the petitioner has submitted that, without going into the merits of the case that has been discussed in the order impugned passed by the Tribunal, if a chance of hearing is given to the contesting respondents in the Tribunal, who is the writ petitioner herein, for which, the matter is remitted back by this Court, since he was not heard admittedly by the Tribunal, to that extent, the petitioner would be satisfied.

11. In this context, even though the learned counsel appearing for the contesting respondents herein, who are the applicants before the Tribunal had contended that due to the paucity of judicial members in the Tribunal at that time, as one member had been drawn from Calcutta, some arrangements had been made in the listing of matters during the relevant point of time. Therefore, the date, which has already been given in the notification dated 07.06.2018 had to be necessarily redrawn by giving pre-poning dates, thereby the cases, which were slated to be listed on 12.06.2018 were preponed to be listed on 08.06.2018 and this factor in fact had been made pursuant to the mentioning of the learned Standing Counsel appearing for the official respondents before the Tribunal and this factor had been brought to the knowledge by the standing counsel to



the learned counsel appearing for the applicants before the Tribunal, therefore, he would submit that, based on such oral information received, he appeared before the Tribunal and conducted the case and to that extent, the contesting respondents before the Tribunal also could have appeared before the Tribunal. Hence that cannot be the reason to be accepted for the purpose of setting aside the judgment, which is impugned herein as the same has been passed on merits of the case, he contended.

12. The similar view has been expressed by the learned Standing Counsel appearing for the official respondents also.

13. We have considered all the submissions made by the parties.

14. The fact remains that, in the notification dated 07.06.2018, it has been specifically mentioned that OA with MA has been posted for hearing on 12.06.2018, since it was an official notification issued by the Tribunal, which cannot be expected that the learned counsel appearing for the parties would be ready to get along with the case on the next date as without their knowledge since the same was taken on Board on



08.06.2018, hence, the learned counsel appearing for the contesting respondents before the Tribunal, who is the writ petitioner herein could not appear before the Tribunal. If any orders passed by the Tribunal, which does not affect the rights of the writ petitioner herein, who is the contesting respondent before the Tribunal that non-appearance of his counsel or the chance, which was not given to him to appear could not be the matter. Once, in the impugned order, the Tribunal since has set aside the final seniority list dated 28.05.2015, by thus the contesting respondent before the Tribunal, who is the writ petitioner herein gets affected, such affected party should have been given the proper opportunity of being heard, therefore, to that extent, we feel that the approach of the Tribunal in proceeding with the matter by preponing the matter on 08.06.2018 in the absence of the contesting respondent therein is an error, therefore, by virtue of that, the order passed by the Tribunal, which is impugned herein is liable to be set aside and the matter is to be remitted back to the Tribunal for reconsideration.

15. Resultantly, the order impugned is set aside and the matter is remitted back to the Central Administrative Tribunal, Chennai Bench for rehearing.



Writ Petition No.2308 of 2019

16. During the rehearing process, the Tribunal will give an opportunity of being heard to both sides and in this regard, if a date is given by the Tribunal, on that date, without any excuse, the learned counsel appearing for the parties should appear and accordingly, the case could be taken up and disposed of within a maximum period of two months from the date of receipt of a copy of this order.

17. We make it clear that, we have not expressed any view on the merits of the case that has been placed before us, the Tribunal in rehearing the issue can independently decide the same once again on merits and in accordance with law.

With the above directions, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

(R.S.K.,J.)

(K.B., J.)

11.03.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No
mp



Writ Petition No.2308 of 2019

To
WEB COPY

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench,
High Court Complex,
City Civil Court Complex,
High Court, Chennai.
2. The Secretary to Government,
Department of Industrial Police,
Ministry of Commerce & Industry,
Udyog Bhavan, New Delhi – 110 001.
3. The Controller General,
Patents, Designs and Trade Marks,
Boudika Sampada Bhavan,
First Floor, SM Road,
Antop Hill, Mumbai – 400 037.
4. The Director General,
Council of Scientific & Industrial Research
Anusandhan Bhavan, New Delhi – 110 001.



WEB COPY



Writ Petition No.2308 of 2019

R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

mp

Writ Petition No.2308 of 2019

11.03.2024