



WP No.10485 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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R.Karnan : Petitioner

versus

1.Union of India,

Represented by its Chief Naval Staff,

Naval Head Quarters,

New Delhi-110 001.

2.Flag Officer Commanding in Chief,

HQ Eastern Naval Command and

Naval Base, Visakhapatnam.

3.The Naval Officer in Charge,

Area Office, Chennai-600 009.

4.Central Administrative Tribunal-Chennai Bench

Additional City Civil Court Building,

High Court Campus, Chennai-600 104.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,

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for the issuance of a writ of Certiorarified mandamus, call for the records of the impugned order dated 29.11.2019 passed by the fourth respondent in OA No.1511 of 2019 and quash the same and consequently, direct the respondents 1 to 3 to consider the representation of the petitioner dated 12.01.2019 in the light of the order passed by the Tribunal in OA No.616 of 2004 dated 07.05.2009.

For the Petitioner : Mr.D.Muthukumar
for M/s.J.Hudson Samuel and Partners

For the Respondents : Mr.Ramesh
Senior Panel Counsel
for respondents 1 to 3
fourth respondent-Tribunal

ORDER

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

The writ petition is filed challenging the order passed in OA No.1511 of 2019 dated 29.11.2019 passed by the Central Administrative Tribunal, Chennai Bench and consequently, direct the respondents 1 to 3 to consider the representation of the petitioner dated 12.01.2019 in the light of the order passed by the Tribunal in OA No.616 of 2004 dated 07.05.2009.

2. The writ petitioner/applicant had filed original application in OA



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No.1511 of 2019 seeking for a direction to the respondents to consider his representation dated 12.01.2019 in the light of the order passed by the Tribunal in OA No.616 of 2004 dated 07.05.2009 and appoint him as Civil Motor Driver. The Tribunal, by order dated 29.11.2019, dismissed the said original application on the ground of limitation. Challenging the said order, the petitioner has filed the present writ petition.

3. Learned counsel for the petitioner submits that the petitioner has earlier filed original application in OA No.616 of 2004 before the Central Administrative Tribunal, Madras Bench and by order dated 07.05.2009, the Tribunal had directed the respondents to consider the petitioner for appointment as a Civilian Motor Driver, within a period of one month from the date of receipt of a copy of that order. Thereafter, the petitioner has made a representation dated 12.01.2019 to the respondents for implementation of the earlier order passed by the Tribunal in OA No.616 of 2004 dated 07.05.2009. Since the same was not considered, the petitioner filed the instant original application. However, the Tribunal dismissed the said application and the reasons stated by the Tribunal is totally incorrect and



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unsustainable. This Court may consider that the petitioner has already approached the Tribunal and also obtained favourable orders to consider the petitioner for appointment to the post of Civilian Motor Driver. The delay is only on the part of the respondents to comply the said order passed by the Tribunal and therefore, he seeks to allow the writ petition, directing the respondents to comply the earlier order passed by the Tribunal in OA No.616 of 2004 dated 07.05.2009 and pass appropriate orders.

4. The third respondent has filed counter affidavit, wherein it is stated that the said application is not maintainable for the reason that the said original application is barred by limitation under Section 21 of the Central Administrative Tribunal Act.

5. Learned Senior Panel Counsel appearing for the respondents 1 to 3 submits that the Tribunal has rightly dismissed the said application. Therefore, nothing warrants to interfere with the order of the Tribunal.

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



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7. The short point involved in the writ petition is whether the original application in OA No.1511 of 2019 filed before Tribunal is maintainable and the same is within limitation period.

8. The contention raised in the writ petition is that the petitioner has earlier filed OA No.616 of 2004 before the Tribunal and the Tribunal, by order dated 07.05.2009, has directed the respondents to consider his request for appointment to the post of Civil Motor Driver, within a period of one month from the date of receipt of a copy of that Order. However, the petitioner has slept over the matter for over ten years and suddenly woke up and approached the authority concerned by way of filing a representation seeking to implement the order of the Tribunal in OA No.616 of 2004. Thereafter, he approached the Tribunal in the instant Original Application in OA No.1511 of 2019 seeking for implementation of the earlier order of the Tribunal by considering the said representation of the petitioner. The Tribunal has stated that the petitioner is indirectly seeking implementation of earlier order passed in the aforesaid OA No.616 of 2004. Therefore, the



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Tribunal has rightly come to the conclusion that the said original application cannot be entertained and rejected the same as it was not maintainable as per Section 21 of the CAT Act.

9. When the petitioner was having remedy under the provisions of the CAT Act, for non-compliance of the said order of the Tribunal, the petitioner ought to have approached the Tribunal within the limitation period for taking necessary action for non compliance of the said order of the Tribunal. Without resorting to such remedy within the time period, he has filed the present Original application in OA No.1511 of 2019, after a lapse of ten years, which is not at all maintainable. Therefore, we came to the conclusion that the petitioner is not entitled for the relief as sought for in the writ petition. Consequently, we are confirming the order passed in OA No.1511 of 2019 dated 29.11.2019. Hence, the writ petition stands dismissed. There shall be no order as to costs.

[D.K.K., J.] [K.B., J.]
14.06.2024

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