



W.P.No.30256 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

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P. Wilson

... Petitioner

Vs.

1. Union of India,
rep. by the Senior Superintendent of Post Offices,
Tambaram Division,
Chennai 600 045.
2. Assistant Superintendent of Post Offices,
Ambattur Sub-Division,
Ambattur, Chennai 600 053.
3. The Registrar,
Central Administrative Tribunal,
Chennai 600 104

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of Writ of Certiorarified Mandamus, to call for the
records of the 3rd respondent Tribunal pertaining to its order which is made in



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O.A.No. 1782 of 2013 dated 14.08.2015 and the order in M.A.No.212/2016 and R.A.No.8/2016 in O.A.No.1782/2013 dated 06.07.2016 and quash the same, consequent to direct the respondents 1 & 2 to grant temporary status to the petitioner in Group-D/MTS cadre with all benefits.

For Petitioner : Mr. R. Malaichamy

For Respondents : Mr. ARL Sundaresan,
ASGOI
Assisted by
V. Balasubramanian,
SPC, for R1 & R2

: R3- Tribunal

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ Petition has been instituted challenging the order dated 14.08.2015 in O.A.No.1782 of 2013.

2. The Writ Petitioner instituted original application before the Tribunal seeking direction to the respondents to grant temporary status to him in Group-D/MTS cadre. Initially, the petitioner sought for the relief to absorb him as



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Gramin Dak Sevaks. The Tribunal considered the issues with reference to the judgment of the Division Bench and made a finding that the petitioner was appointed as an outsider at Villivakam Sub Post Office with effect from 01.05.1989. He is an approved outsider as per the records of the Postal Department. He had been continuously engaged from 1989 onwards in various capacities, such as Extra Departmental Delivery Agent(EDDA)(now re-designated as Gramin Dak Sevaks). He served about 24 years with intermittent breaks in service. On some occasion, he was allowed to work as Postman. The Tribunal ultimately found that he was engaged as an outsider on each occasion and it was a stop gap arrangement. Thus, the petitioner had not accrued any right for permanent absorption in the Postal Department. He cannot be categorized as casual labourer so as to claim the benefit under the scheme framed by the respondents for permanent absorption in a phased manner.

3. Mr.R. Malaichami, learned counsel for the petitioner would rely on the guidelines issued by the Department of Postal on 17.05.1989. Even an outsider is entitled for permanent absorption since the petitioner in the present case has served for long years.



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4. Mr. A.R.L.Sundaresan, learned Additional Solicitor General of India would oppose by stating that the very same guideline dated 17.05.1989 clarifies that " Substitutes engaged against absentees should not be designated casual labourer. For purposes of recruitment to Group 'D' posts, substitutes should be considered only when casual labourers are not available. That is, substitute will rank last in the priority, but will be above outsiders. "

5. Apart from the guidelines state above, it is not in dispute that the initial appointment of the petitioner was not made in accordance with the guidelines. Since the initial appointment as an outsider was irregular, he was not considered for any permanent absorption in Postal Department.

6. The counter filed by the respondents reveal that the petitioner was engaged as an outsider to work in the leave vacancies of GDS/ Postman/ Group-D from the year 1989 and he was engaged for speed delivery works. His engagement was made without absorbing any recruitment formalities and without getting nomination from employment office.



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7. Admittedly, the petitioner attained the age of superannuation and retired from service in April 2024. Now after his retirement, he is not entitled to claim any permanent absorption or any other benefits as admissible under the Scheme which is already formulated for permanent absorption of the temporary employees in Postal Department. Thus, we are not inclined to interfere with the finding of the Central Administrative Tribunal, which is in consonance with the legal position. Consequently, order impugned stands confirmed and the writ petition is dismissed.

[S.M.S., J.]

[M.J.R., J.]

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Index: Yes/No

Speaking/Non-speaking order

mrp

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