



WP No.11374 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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1.Union of India

Represented by Secretary,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi 110 001.

2.Director (Staff)

Department of Posts,
Ministry of Communications and I.T.,
Dak Bhavan, Sansad Marg,
New Delhi 110 001.

3.The Chief Post Master General,

Tamilnadu Circle,
Chennai-600 002.

... Petitioner

versus

1.The Registrar,

Central Administrative Tribunal,
High Court Campus,
Chennai-104.



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2.K.K.Sellaiyan

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari calling for the records of first respondent in OA No.1181 of 2015 dated 06.12.2018 in disposing the OA filed by the second respondent and quash the same.

For the Petitioners :Mr.S.Janarthanam
Senior Panel Counsel

For the Respondents :Mr.Karthik Rajan
for Mr.Menon Karthik Mukundan
Neelakandan
for second respondent
first respondent-Tribunal

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)
Challenging the order passed by the Central Administrative Tribunal
in OA No.1181 of 2015 dated 06.12.2018, the petitioner Department has
filed the present writ petition.

2. Brief facts of the case:

2.1. The second respondent's father while working as Postman, died in
harness on 05.06.1996. Thereafter, the second respondent submitted an



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application dated 05.08.1996 to petitioner Department seeking employment on compassionate grounds. In circle office letter No.REP/33-26/96 dated 30.05.1997, addressed to the second respondent, with a copy endorsed to the Superintendent of Post Offices, Dharmapuri division, it has been informed that the circle committee had considered his case favourably and approved for appointment for Group D services in the Postal Department under compassionate grounds. The second respondent's name was kept in the waiting list for want of vacancies. However, he was granted temporary appointment and continued to work till the year 2011 when his appointment was terminated.

2.2. In the meanwhile, the Department of Personnel and Training vide memo dated 24.11.2000, ordered to discontinue the maintenance of waiting list of approved candidates for compassionate appointment. The Postal Directorate in letter dated 08.02.2001 issued direction to such wait listed candidates to give their willingness for consideration to other Ministries. Thereafter, the Department of Personnel and Training vide OM No.14014/18-Estt (D) dated 22.06.2001, directed the Department that



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consideration of waiting list for appointment on compassionate grounds should be subject to availability of vacancies within the ceiling of 5% falling under direct recruitment in Group C and Group D posts and to discontinue the practice of circulating the names of deserving applicants to other Ministries/Department. Subsequently, as per the directions of the Department of Personnel and Training, in Postal Directorate letter dated 25.07.2001, it was decided to dispense with the procedure of keeping waiting list of candidates for compassionate appointment.

2.3. Against this order issued by the Postal Directorate in Letter dated 25.07.2001 dispensing with the maintenance of waiting list of approved candidates for compassionate appointment, some of the candidates who were approved and kept in the waiting list prior to aforesaid order, filed O.A. No.862 of 2001 and batches before the Tribunal claiming regularization. The Tribunal, allowed the said O.As. Aggrieved by the same, the petitioner Department filed writ petition in WP Nos.38990 of 2002 and batch before this Court. By order dated 20.06.2007, this court dismissed the said batch of writ petitions. Since the issue involved policy decision, the Government



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filed SLP before the Hon'ble Supreme Court in SLP No.2976/2008 (Civil Appeal No.7773/2009). The Hon'ble Supreme Court, by order dated 30.07.2010, directed the petitioner Department to regularize the services of 202 candidates who were engaged in the Department as on 27.10.2009. Subsequently, by orders dated 30.08.2010 and 08.03.2011, 239 approved candidates were regularized. Further in the communication dated 05.08.2011, it is stated that apart from the 239 cases, 124 approved candidates were still engaged in leave/short term vacancies. Out of the 124, 14 approved candidates had approached the Central Administrative Tribunal, Chennai. Till the cases were decided by the Tribunal, the 14 applicants were to be continued to be engaged. The remaining 110 candidates, who were not litigants before the Tribunal, were directed to be disengaged and due to the said direction, the second respondent had been disengaged. The name of the second respondent was figured at Serial No.70 in the disengaged candidates list.

2.4. Subsequently, the second respondent along with others filed OA No.54 of 2011 before the Tribunal for regularization. The Tribunal, by order



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dated 05.01.2011 directed the petitioner Department to dispose of the representation to be submitted by the applicants individually. In view of this, the second respondent submitted a representation on 07.04.2011, which was disposed of on 15.07.2011. Subsequent to this, the second respondent again submitted a representation dated 24.02.2015 to the third petitioner for regularization of service, for which, the third petitioner by order dated 10.03.2015 replied that as the request of the second respondent for regularization of service was already rejected by DTE Memo No,19-5/2003-SPB-I, dated 24.06.2011 itself, his case for compassionate appointment could not be considered. Aggrieved by the said order, the second respondent filed the instant OA No.1181 of 2015 before the Central Administrative Tribunal.

2.5. In the course of proceedings before the Tribunal in the instant OA No.1181 of 2015, the applicant/second respondent herein produced a copy of the order of this Court in WP Nos.39039 and 34130 of 2014 before the Tribunal, wherein two similarly placed persons namely Ramkumar and Saroja out of the 110 candidates contained in the list, were granted relief



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with a direction to the Department to reinstate and regularize their services with effect from their original appointment with all consequential benefits except payment of arrears on account of such regularization in terms of the orders passed by the Hon'ble Supreme Court in Civil Appeal No.7773 of 2009 dated 30.07.2010.

2.6. Following the above decision of the Hon'ble Supreme Court rendered in Civil Appeal No.7773 of 2009 dated 30.07.2010 and relying on the decision of this Court in WP Nos.39039 and 34130 of 2014 dated 13.02.2017, the Tribunal, by order dated 06.12.2018, had disposed of the said OA with the following directions:

In view of the above submission, as it is not denied that the applicant is similarly placed as the petitioners/respondents in the aforesaid W.Ps., this OA is disposed of with a direction to the respondents to extend the same benefits to the applicant as being granted to the petitioners/respondents therein in terms of the order of the Hon'ble High Court dated 13.02.2017 in the said Writ Petitions.

OA is disposed of with the above directions. No costs."



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2.7. Challenging the said order, the petitioner Department has filed the present writ petition.

3. Learned Senior Panel counsel appearing for the petitioner Department would submit that out of the wait listed candidates, 239 candidates were approved and regularized by orders dated 30.08.2010 and 08.03.2011 passed by the Department. Apart from the said 239 candidates, 124 approved candidates were still engaged in leave/short term vacancies. He further submits that out of the 124 candidates, 14 approved candidates had approached the Tribunal and the remaining 110 candidates who were not litigants were directed to be disengaged. The name of the second respondent was figured at Serial No.70 of the list disengaged candidates. Further, as per the order dated 19.01.2015, the remaining 50 candidates of CA-19-2014 mentioned in the MTS cadres were regularized. Thereafter, the second respondent submitted a representation dated 24.02.2015 to the third petitioner for regularization of service. He further submits that as the name of the second respondent herein was found at Serial No.70 in the said list of 110 approved candidates, who have been disengaged by the



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Department, the third petitioner by order dated 10.03.2015 rejected the request of the second respondent for regularization of his service. He submits that the Tribunal has failed to consider the aforesaid ground raised by the petitioner Department and therefore, the order of the Tribunal is liable to be set aside.

4. Learned counsel appearing for the second respondent would submit that a Division Bench of this Court in WP Nos.39039 and 34130 of 2014 dated 13.02.2017, had granted relief to two candidates namely Ramkumar and Saroja, out of the 110 disengaged candidates with a direction to regularize and reinstate the petitioners therein, following the decision of this Court in WP No.38990 of 2002 and batch dated 20.06.2007, which was later confirmed by the Hon'ble Supreme Court in SLP No.2976 of 2008 (CA No.7773 of 2009) dated 30.07.2010. He further submits that following the aforesaid order of Division Bench of this Court, the Tribunal has rightly allowed OA No.1181 of 2015. Therefore, nothing warrants to interfere with the order passed by the Tribunal. Hence, he seeks dismissal of the writ petition.



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5. We have anxiously considered the submissions made by the parties and perused the materials available on record.

6. According to the petitioner Department, out of the wait listed candidates, 239 candidates were approved and regularized by orders dated 30.08.2010 and 08.03.2011 passed by the Department. Apart from the said 239 candidates, 124 approved candidates were still engaged in leave/short term vacancies. Further, out of this 124 candidates, 14 approved candidates had approached the Tribunal in OA Nos 862/2001 and batches seeking regularization. The Tribunal, allowed the said OAs. Aggrieved by the same, the petitioner Department filed writ petition in WP Nos.38990 of 2002 and batch before this Court. By order, 20.06.2007, this court dismissed the said writ petition. Since the issue involved policy decision, the Government filed SLP before the Hon'ble Supreme Court in SLP No.2976/2008 (Civil Appeal No.7773/2009). The Hon'ble Supreme Court, by order dated 30.07.2010, directed the petitioner Department to regularize the services of those candidates before Court.



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7. It is seen, out of 124 candidates, the remaining 110 candidates who were not litigants before the Tribunal, were directed to be disengaged. In the list of 110 disengaged candidates, the name of the second respondent was found at Serial No. 70.

8. It is further seen that out of this 110 disengaged candidates, two disengaged candidates namely Ram Kumar and Saroja, who were also originally terminated by the Department, approached the Tribunal and the said OA was dismissed. Thereafter filed writ petition before a Division Bench of this Court in WP No.39039 of 2014 and the Division Bench, by a common order dated 13.02.2017 granted relief to the petitioners therein by directing the Department to reinstate and regularize their services with effect from their original appointment with all consequential benefits except payment of arrears on account of such regularization in terms of the orders passed by the Hon'ble Supreme Court in Civil Appeal No.7773 of 2009 dated 30.07.2010, wherein the Hon'ble Supreme Court specifically directed to regularize the 202 persons, who were engaged as on 27.10.2009.



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9. The records placed in the typed set of papers, clearly shows that the second respondent was also engaged as on 27.10.2009. It is brought to the notice of this court that no similar case is pending before this court or before the Tribunal. Therefore, considering the said facts and decision rendered by this Court in the earlier order dated 20.06.2007 in WP No.38990 of 2002 and batch, which was later confirmed by the Hon'ble Supreme Court in SLP No.2976 of 2008 (CA No.7773 of 2009) dated 30.07.2010, and following the same, a similar order has been passed by a Division Bench of this Court, in WP No.39039 and 34130 of 2014 dated 13.02.2017, granting similar relief to the petitioners therein, this court is of the view that the second respondent is also entitled for getting benefit of reinstatement and regularization of services, as in the case of similarly placed persons in the aforesaid writ petitions. Therefore, we are satisfied that there is no warrant to interfere with the order of the Tribunal dated 06.12.2018 in OA No.1181 of 2015 and accordingly, the same stands confirmed and writ petition is dismissed. The direction passed by the Tribunal in OA No.1181 of 2015 dated 06.12.2018 shall be complied with, within a period of 12 weeks from the date of receipt of a copy of this order.



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There shall be no order as to costs. Consequently, WMP No.13866 of 2020 is closed.

[D.K.K., J.] [K.B., J.]
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Index : Yes/No
Neutral Citation : Yes/No
mrn

To
1.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai-104.



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D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.

(mrn)

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