



W.P.No.14829 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.No.14829 of 2024 and

WMP No.16069 of 2024

1. Union of India, rep. By
the Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat, Puducherry.

2. The Secretary to Government,
Department of Personnel and Administrative Reforms
(Personnel Wing), Chief Secretariat,
Puducherry.

3. The Under Secretary to Government,
Department of Personnel and Administrative Reforms
(Personnel Wing), Government of Puducherry,
Puducherry.

... Petitioners

Vs.

1. The Central Administrative Tribunal,
Chennai Bench, Chennai,
Rep. by its Registrar.

2. S.Packirisamy

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records pertaining to the order passed in O.A.No.463/2016, dated 16.06.2023 on the file of the Central Administrative Tribunal, Madras Bench and quash the same.

For Petitioners : Mr.R.Syed Mustafa
Special Government Pleader

For Respondents : Mr.Prakash Adiapadam for second respondent

ORDER

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

This writ petition has been filed by the Government of Puducherry to quash the impugned order passed by the Tribunal in O.A.No. O.A.No.463/2016, dated 16.06.2023, in and by which, the petitioners were directed to grant the monetary benefits to the second respondent herein from 14.03.1988 on par with his immediate junior, namely K.Indirani within three months along with interest at the rate of 6% per month.

2. The brief facts leading to the filing of the writ petition is as follows.

The second respondent was appointed as Lower Division Clerk on 22.08.1986 and after completion of probation period, he was confirmed in



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the service and as per the seniority published by the Department dated 24.10.1990, he was placed at Sl.No.2430, above the name of K.Indhirani (Sl.No.2431). While he was working as LDC, disciplinary proceedings were initiated against him for the offence punishable under Section 3(i)(ii) of Central Civil Services (Conduct) Rules 1964. After inquiry, and based on the enquiry report, the department imposed the following penalties to the second respondent.

- a. His Pay was reduced to the minimum of the pre-revised scale of Rs.950-20-1150-25-1500 (revised scale of Rs.3050-75-3950-80-4590 with effect from 01.01.1996 and continue to draw the same for a period of 10 years w.e.f. 01.01.1996 to 31.12.2005.
- b. He should not be considered for promotion during the period from 01.01.1996 to 31.12.2005 either by direct recruitment or departmental promotion to any post higher to the present post of LDC held by him.
- c. The period of his suspension i.e. 11.12.1995 to 25.10.1998 is treated as “dies-non”.

Against which, he had preferred an appeal and the appellate authority, by order dated 07.07.2003, has set aside the above punishment order, by exonerating him from all the charges with further direction of De-nova enquiry. Accordingly, De-nova enquiry was conducted and after enquiry, the second respondent was exonerated from all the charges levelled against



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him, vide order dated 10.06.2005.

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2.1. In the meanwhile, his immediate Junior Indirani was given promotion as UDC on 01.12.1998. Hence, he gave representation seeking promotion on par with his junior Indirani. According to the first respondent, inspite of his representations, he was not promoted on par with his immediate Junior Indirani, per contra, i) vide order dated 14.03.2007, he was given promotion notionally as UDC w.e.f. 26.08.2003, on par with his junior Mr.S.Cartigeyane ii) vide order dated 25.06.2008, he was promoted notionally as Assistant w.e.f. 19.05.2006 on par with his Junior Mr.S.Cartigeyane. Subsequently, final seniority list of UDC dated 17.06.2013 and the tentative list of Assistant, dated 09.01.2015 were also published, putting his name above Mr.S.Cartigeyane, for which objection was also filed by him. Thereafter, on 22.09.2015 the Department had published the promotion list for the post of Superintendent in which, Indirani name was found in place in Sl.No.1, but the petitioner name ought to have placed in Sl.No.1

2.2. Finally, the petitioners had issued the order dated 27.01.2016,



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promoting the second respondent to the post of UDC w.e.f. 30.06.1999, on par with his junior K.Indirani (LDC Seniority No.2431) and with monetary benefit from 16.03.2007, the date on which he joined as UDC and his seniority in the post of UDC was fixed at No. 2501-A, above the name of Indirani (2502). Challenging the above order, the second respondent approached the Tribunal by filing O.A.No.463/2016 to grant monetary benefits from 14.03.1998, the date on which Indirani was promoted as UDC. The Tribunal has allowed the original petition and challenging the same, this writ petition has been filed.

3. The learned counsel for the petitioner/Department submitted that on conclusion of de-nova inquiry, the second respondent was exonerate from all the charges and hence, he was granted notional promotion in the post of UDC on regular basis on par with his immediate junior K.Indiran. Accordingly, while granting promotion to the respondent, his pay in the post of UDC was notionally fixed w.e.f. 30.06.1999 and the fixation benefit was granted to him from 30.06.1999 to 16.03.2007 i.e. from the actual date of joining in the post of UDC. He further submitted that, during the period



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from 30.06.1999 to 16.03.2007, he had worked as LDC and discharged the duties of LDC post only. In the normal rule, being "no work no pay", a person cannot be allowed to draw the benefits of a post, for which he had not discharged the duties and he could be paid only for the duties he had done. However, in contravention of the settled principle of 'no work no pay', the Tribunal has allowed the original application, which cause prejudice and hardship to the administration. Hence, the order of the Tribunal is liable to be set aside.

4. We have gone through the entire order passed by the Tribunal. Admittedly, on conclusion of de-nova enquiry, the second respondent was exonerated from all the charges levelled against him in the disciplinary proceedings. As such, the petitioners/department has rightly granted notional promotion to the second respondent in the post of UDC on regular basis, on par with his immediate junior K.Indirani, however, not granted monetary benefits from the date on which, he was promoted notionally, for the reason that, during the said period, he had not discharged his duty in the promotional post. The stand taken by the appellant cannot be accepted,



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because, when an employee exonerated from all the charges levelled against him, and had not visited with the penalty, even of censure, he should not be deprived of the benefits, including the salary of the promotional post along with other benefits. The Tribunal has considered the case in detail by relying upon the decisions of the i) Hon'ble Supreme Court in i) ***Civil Appeal Nos.3018-3021 of 1987*** in the matter of ***Union of India and others Vs. K.V.Janakiraman and others***, ii) ***Civil Appeal No.339/2021***, dated 08.12.2021 in ***The State of Andhra Pradesh and another Vs. Smt.Dinavahi Lakshmi Kameswari*** and also the decisions of the ***Madurai Bench of this Court in W.P(MD) Nos. 15634, 17953/2013, dated 03.12.2019*** and has rightly come to the conclusion that the rule of " No work No pay" is not applicable to present cases, because the second respondent although is willing to work, is kept away from the work by the authorities for no fault of him. Further, it is the contention of the second respondent before the Tribunal that he had performed more work that allotted to the post of UDC, as per the orders from 1996-2008. The above contention was not specifically disputed by the petitioners/Department. Therefore, considering all the aspects, we are of the view that the Tribunal had rightly allowed the



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original application and the Petitioners/Department have not placed any substantial material before this court to interfere with the findings of the Tribunal.

5. At this juncture, the learned Special Government Pleader seeks two months time to comply the orders passed by the Tribunal.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The petitioners/Department is directed to comply the orders passed by the Tribunal in O.A.No.463/2016, dated 16.06.2024, within a period of eight weeks from the date of receipt of a copy of this order.

(D.K.K.J.) (K.B.J.)

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Internet: Yes/No
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To
The Central Administrative Tribunal,
Madras Bench.



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