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Writ Petition No.327 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.01.2024

PRONOUNCED ON : 29.04.2024

CORAM

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

**Writ Petition No.327 of 2024 &
WMP.No.392 of 2024**

1.Chairman & Managing Director
Bharat Sanchar Nigam Limited,
Corporate Office,
Bharat Sanchar Bhavan, Janpat,
New Delhi.

2.The Chief General Manager,
BSNL, Chennai Telephones,
78, Purasawakkam High Road,
Chennai – 600 010. ... Petitioners

Vs

1.The Registrar
The Central Administrative Tribunal
Chennai Bench,
Chennai

2.G.Anbu ... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records in OA No.1496 of 2018, on the file of the Hon'ble Central Administrative Tribunal, Chennai Bench and quash the order dated 29.03.2023 and to pass such other orders.

For Appellants :Mr.B.Mohan

For Respondent :Mr.Karthik for R2
R1 – No Appearance

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

Heard Mr.B.Mohan, learned counsel appearing for the petitioners and Mr.Karthi learned counsel appearing for the second respondent.

2. The issue involved in this Writ Petition is as to whether the petitioners were correct in rejecting the claim of the second respondent for regularisation of his services.



3. From the facts that had been narrated by the respective counsels, we find that this is not the first round of litigation. The claim of the second respondent had been also a subject matter of Writ Petition in W.P.No.40388 of 2015, dated 15.11.2016, in which a Division Bench of this Court had categorically held that the issue of regularisation in respect of the second respondent therein who is also the second respondent herein had attained finality. The relevant portion of the aforesaid order is extracted hereunder:-

15. At the beginning of this order, we have already recorded the submission of the learned counsel for the private respondents that certificates of Mr.G.Anbu/respondent No.2 were found to be genuine and whereas, the certificates of Mr.K.Olli/respondent No.3 were found to be bogus. Contention of the writ petitioners that by virtue of the judgment of the Hon'ble Apex Court, in Omprakash's case that regularisation can be made only, as a one time measure and not thereafter, cannot be accepted, for the reason that it was 10 not the plea of the writ petitioners, in the counter affidavit filed in O.A.No.1371/2011. Only after the disposal of O.A.No.1371/2011 dated 18.07.2012, and that too, in the review application filed, writ petitioners have introduced a new plea.

16. As regards regularisation, judgment rendered in O.A.Nos.156 and 159 of 2012 dated 22.06.2012 has been found to be equally applicable to the case of the applicants in O.A.No.1371/2011.



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The department/writ petitioners have not filed any review of the order made in O.A.No.1371/2011 or challenged the same by way of writ petition under Article 226 of the Constitution of India. Therefore, the order of the Tribunal directing regularisation has become final. In M.A.No.310/00624/2014 in RA in OA No.1371/2011 filed by the private respondents to condone the delay of 731 days, the Tribunal has only reiterated the earlier directions issued to the official respondents, to take up the process of regularisation, as expeditiously as possible. No fresh directions have been issued. Merely because the Tribunal has reiterated the directions issued earlier, that would not confer a right on the writ petitioners to resurrect the matters, which they have not chosen to challenge.

19. When the orders directing the official respondents to regularise, have already reached finality, it is not open to them to assail the correctness of an order passed by the Tribunal, at the instance of the private respondents. In the miscellaneous application, filed by the private respondents, the earlier directions issued have been reiterated, that if the certificates produced by the respondent No.2, are found to be genuine, he should be regularised. As per the certificate issued by the Certificates Verification Committee, the date of entry of Mr.G.Anbu/respondent No.2 in BSNL is 26.05.1994. As per the findings of the Certificates Verification Committee, he has also rendered continuous service of 19 years from 26.5.1994 except for a short break between 20.06.1995 and the order of termination dated 12.10.1995. Thus when he has rendered 19 years of service, and inasmuch as certificates produced by him were found to be genuine and that he was not terminated on the date of filing of O.A.Nos.156 and 159 of 2012, the Tribunal has directed the petitioners herein, to



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take up the process of regularisation, as expeditiously as possible. We do not find any infirmity in the order.

4. It is also to be noted that a SLP filed by the Department as against the aforesaid judgment had also been dismissed by the Hon'ble Apex Court by its order dated 09.10.2017.

5. But however, the second respondent had again reiterated that since the second respondent entry into service had been recorded as 26.05.1994, he would not be entitled for regularisation. It is not the case of the petitioner that the said date of entry into service of the second respondent was not taken into consideration by the Division Bench of this Court while passing the order. The same fact is explicit in paragraph 19 extracted supra.

6. Even in the earlier order, the Division Bench of this Court had refused to entertain the plea of the Writ Petitioners to revisit the order directing regularisation which has remained unchallenged by them. What the petitioners now seek is to again reopen the issue that had already been



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concluded.

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7.In such view of the matter, we do not see any infirmity in the order passed by the Tribunal. The Tribunal by its order dated 29.03.2023, had granted three months time and had also imposed a cost of Rs.10,000/- . Since the time had already expired, the petitioners are directed to implement the orders of the Tribunal within a period of eight (8) weeks from the date of receipt of a copy of this order.

8.In fine, the Writ Petition is dismissed with the aforesaid directions. However, there shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

(R.S.K.,J.)

(K.B., J.)

29.04.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation:Yes/No

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To

The Registrar
The Central Administrative Tribunal
Chennai Bench,
Chennai



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

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