



W.P.No.22995 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE MR. JUSTICE **V.LAKSHMINARAYANAN**

Writ Petition No.22995 of 2024 &
W.M.P.No.25076 of 2024

- 1.Union of India,
rep. by the Chief Postmaster General,
Head Post Office,
Tamil Nadu Circle,
Chennai – 600 002.
 - 2.The Assistant Superintendent of Post Offices,
Rajapalayam Sub-Division,
Rajapalayam-626117
 - 3.The Senior Superintendent of Post Offices,
Virudhunagar Division,
Virudhunagar – 626 001.
 - 4.The Director of Postal Services,
Southern Region (TN),
Madurai – 625 002.
 - 5.The Postmaster General,
Southern Region (TN),
Madurai – 625 002.
- ... Petitioners

Vs.

- 1.S.Ganesan
 - 2.D.Jeyachandiran
 - 3.The Registrar,
The Central Administrative Tribunal,
Chennai Beach, Chennai – 104.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records pertaining to order dated 24.03.2023 passed in Original Application No.1712/2017 on the file of the 3rd respondent and quash the same.



W.P.No.22995 of 2024

WEB COPY

For Petitioner : Mr.A.R.Sakthivel

For Respondent 1 : Ms.Rani Selvam

For Respondent 2 : No appearance

Respondent 3 - Tribunal

ORDER

(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)

Heard Mr.A.R.Sakthivel for the petitioner and Ms.Rani Selvam for the first respondent.

2. The writ petition seeks for the following reliefs:

“ To call for the records pertaining to order dated 24.03.2023 passed in Original Application No.1712/2017 on the file of the 3rd respondent and quash the same.”

3. The first respondent was the applicant and the second respondent and petitioners were the respondents before the Central Administrative Tribunal (hereinafter referred to as “CAT”).

4. The applicant sought for the following relief before the CAT:

“To call for the records relating to impugned order of Termination vide memo No.GDSMD/MD/Nachiarkoil at Rajapalayam – 626 117 dated 07.04.2008 and quash the same as highly illegal, unlawful, arbitrary, malafide, ultravires, discriminative and unconstitutional as it violates Articles 14, 16(1), 21 and 311(2) of



WEB COPY

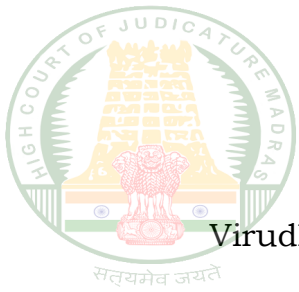


W.P.No.22995 of 2024

Constitution of India and it violates cardinal “Principles of Natural Justice” “Audi Alterem Partem” (No Man shall be Punished unheard) and against the doctrine of “Promissory Estoppel” and consequently direct the respondents to reinstate the applicant into service with all monetary and non monetary benefits and continuity of service.”

5. The facts giving rise to the present writ petition are the applicant, who belongs to the Scheduled Tribe Community, had applied to the post of Gramin Dak Sevak, Mail Deliverer/Mail Carrier (hereinafter referred to as “GDS MD/MC”). The respondent had attempted to recruit candidates through the local District Employment Exchange. No candidate had been sponsored by the Employment Exchange. Therefore, a local notification was issued by the respondents.

6. Six persons applied for the said post. The applications were processed by the Departmental Selection Committee comprising of ASP, Sivakasi Sub Division, and the second respondent, who was the Assistant Superintendent of Posts, Rajapalayam. Of the six applicants, the applicant herein was short listed in Sl. No.4. The applicants were called for verification of certificates on 16.12.2006. On that day, all the short listed candidates appeared for verification. After the process, the applicant was selected provisionally and posted as GDS MD/MC at Nachiarkoil, BO. This appointment was subject to verification of character and antecedents from the District Collector,



Virudhunagar.



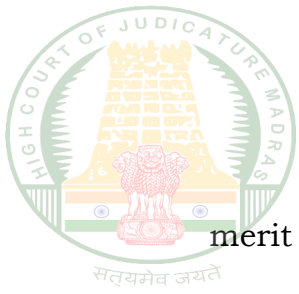
W.P.No.22995 of 2024

WEB COPY

7. The Applicant also joined the said post on 16.12.2006. On 07.04.2008, the respondents terminated the service of the applicant without giving a show cause notice or calling for any explanation. The applicant, therefore, submitted a representation seeking reinstatement on 21.05.2008 and followed it up with several representations dated 19.2.2009, 27.01.2010, 23.03.2011, 09.03.2012, 25.06.2012 and finally on 09.07.2012. As there was no response to any of these representations, he approached the office of Prime Minister of India, and still, as no effective reply was obtained, he moved the CAT to quash the proceedings dated 07.04.2008 and for consequential reliefs.

8. The CAT accepted the application and issued notice to the respondents calling upon them to file a counter. They also do so by way of a detailed reply.

9. According to the respondents, the appointment of the applicant was against the Rules and merit was not followed. They received a complaint from a meritorious candidate regarding the selection process. On the basis of this complaint, an enquiry was initiated against the concerned officer and liability was fixed on him. The writ petitioners came to a conclusion that since the appointment was given without following the merit, and as the applicant was low in

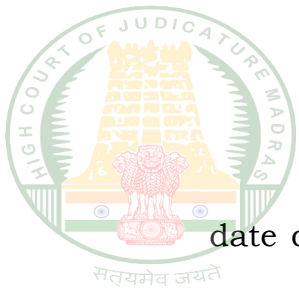


W.P.No.22995 of 2024

merit than the other persons, who were higher than him, they justified their actions. They pointed out that an enquiry had been held against the second respondent and he had been awarded with the punishment of reduction of pay with two stages. Consequently, they sought for dismissal of the application.

10. After receipt of the reply, the applicant filed a rejoinder pointing out that the vacancy, that had been reserved for Scheduled Tribe Candidates, had been filled up with backward class candidates and this in itself is violative of the Constitution. He also pointed out that he had been recruited in 2006, and the new Recruitment Rules were framed in the year 2011, and therefore, the same could not be applied to him.

11. The CAT took up the application for disposal and heard the counsels. After analysing Gramin Dak Sevak (Conduct and Engagement) Rules of 2001, the CAT came to a conclusion that as no opportunity had been given to the applicant, nor had any explanation been sought for from him, the order of termination is bad. It held that the enquiry conducted against the second respondent is of no use in the present case as the enquiry report of the year 2012 initiated against the second respondent did not point fingers of connivance and collusion with the applicant herein. Consequently, it set aside the order dated 07.04.2008 and reinstated the applicant in service. However, it denied the prayer for backwages for the period from the



W.P.No.22995 of 2024

date of termination till the date of reinstatement of the applicant. It, however, left open to the respondents to pass fresh orders in accordance with law. Challenging the same, the present writ petition.

12. The CAT also relied upon its previous order in ***K.Madasamy v. Senior Superintendent of Post Offices, Virudhunagar and three others, O.A.No.567 of 2007*** dated 25.11.2008, a case, which was with respect to a person similarly situated, to allow the application. It also held that the post reserved for Scheduled Tribe Community cannot be filled up by giving appointment to another person. Therefore in the interest of justice, the aforesaid orders came to be passed.

13. Mr.A.R.Sakthivel pleaded that the second respondent had colluded with the applicant and the result of such a collusion was the order of appointment in favour of the applicant. Mr.A.R.Sakthivel does not dispute the fact that no enquiry was conducted by the respondents prior to visiting the applicant with the order of termination.

14. We have gone through the records and carefully considered the submission of both sides.

15. The undisputed facts show that the applicant had joined as



W.P.No.22995 of 2024

GDS MD/MC, and had worked continuously from 16.12.2006 to 07.04.2008. The applicant did not come under any adverse notice. The ground, on which the applicant has been terminated, is that the second respondent, who was a part of the Departmental Selection Committee, had not followed the Rules.

16. The learned counsel for the writ petitioners/respondents relied upon Rule 8 of the Gramin Dak Sevak (Conduct and Engagement) Rules of 2011. According to him, the recruiting authority can terminate the services of a sevak, who has not rendered three years of continuous service from his engagement, at any time by giving a month's notice. Hence, he pleaded that the order of the CAT is wrong.

17. It would be relevant here to refer to two proceedings of the Post Master General in letter No.STC/5-18/80 dated 29.04.1983, and that of the Director General of Posts and Telegraphs in letter no.151/2/78-Disc.II dated 19.04.1979. A reference of these two proceedings clarifies the scope of Rule 8. Taking into consideration that certain decisions were taken invoking the predecessor of Rule 8, namely, Rule 6, when specific acts of misconduct have surfaced, the Post Master General of Madras in the first of the aforesaid proceedings had directed that such a practice must be discontinued forthwith. In addition, the Director General of Post and Telegraphs had instructed his subordinates that if a specific irregularity comes to surface, then a



W.P.No.22995 of 2024

regular disciplinary proceeding will have to be initiated, as safeguard is afforded to ED agents under Article 311 of the Constitution.

WEB COPY

18. A perusal of the counter shows that the respondents alleged that the appointment of the applicant is against Rules and without following merit. They had received such a complaint from a meritorious candidate. An enquiry had been initiated against the officer and liability was fixed. It is conceded by the respondents that in the enquiry so instituted, the applicant was not put on notice at all.

19. Mr.A.R.Sakthivel argues that the report of the enquiry officer had found that the second respondent herein had indulged in malpractice and consequent thereto, the order appointing the applicant came to be issued. When malpractice is alleged, the least that the respondents should have done is to find out whether there were any acts of collusion between the applicant and the second respondent. No person can be condemned without hearing. An enquiry had been initiated against the second respondent and on that basis, the applicant has been dismissed.

20. The applicant was never given an opportunity to demonstrate before the authorities that he had not been a part of any acts of misconduct or collusion. The CAT had gone into that issue and had specifically found in paragraph 13 of the order that the enquiry initiated against the second respondent did not return any finding



W.P.No.22995 of 2024

against the applicant. That being the position, the report submitted against the acts of the second respondent cannot be used to terminate the applicant herein.

21. The charges against the second respondent was that he had secured letters from the candidates, who stood first to third positions in the merit list as if they were not interested to take up the job and consequently, appointed the applicant. Whether the applicant herein had played a part in recording the unwillingness of the candidates at Sl. Nos.1 to 3 had never been probed into.

22. As to what is a misconduct has been gone into by two verdicts of the Supreme Court in

(i) **Union of India and Others v. J.Ahmed, (1979) 2 SCC 286.**

The relevant portion is extracted for ready reference:

“Misconduct means, misconduct arising from ill motive; acts of negligence, errors of judgment, or innocent mistake, do not constitute such misconduct.”

(ii) the **State of Punjab and others v. Ram Singh, (1992) 4**

SCC 54. The relevant portion is extracted for ready reference:

“5.Misconduct has been defined in Black's Law Dictionary, Sixth Edition at page 999 thus:

“A transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, wilful in character, improper or wrong behavior, its synonyms are misdemeanor, misdeed, misbehavior, delinquency, impropriety,



WEB COPY



W.P.No.22995 of 2024

mismanagement, offense, but not negligence or carelessness.”

Misconduct in office has been defined as:

“Any unlawful behavior by a public officer in relation to the duties of his office, wilful in character. Term embraces acts which the office holder had no right to perform, acts performed improperly, and failure to act in the face of an affirmative duty to act.”

P. Ramanatha Aiyar's Law Lexicon, Reprint Edition 1987 at page 821 defines ‘misconduct’ thus:

“The term misconduct implies a wrongful intention, and not a mere error of judgment. Misconduct is not necessarily the same thing as conduct involving moral turpitude. The word misconduct is a relative term, and has to be construed with reference to the subject matter and the context wherein the term occurs, having regard to the scope of the Act or statute which is being construed. Misconduct literally means wrong conduct or improper conduct. In usual parlance, misconduct means a transgression of some established and definite rule of action, where no discretion is left, except what necessity may demand and carelessness, negligence and unskilfulness are transgressions of some established, but indefinite, rule of action, where some discretion is necessarily left to the actor. Misconduct is a violation of definite law; carelessness or abuse of discretion under an indefinite law. Misconduct is a forbidden act; carelessness, a forbidden quality of an act, and is necessarily indefinite. Misconduct in office may be defined



WEB COPY



W.P.No.22995 of 2024

as unlawful behaviour or neglect by a public officer, by which the rights of a party have been affected.”

6. Thus it could be seen that the word ‘misconduct’ though not capable of precise definition, on reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude, it must be improper or wrong behaviour; unlawful behaviour, wilful in character; forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty; the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve.”

23. This shows that it is duty of the respondents to have demonstrated a wrongful intention on part of the applicant before sending him out of service. If the applicant is not guilty or of wrong or improper conduct, the respondents could not have utilised the enquiry report submitted as against the second respondent in order to conclude that the applicant is also equally liable.

24. As the writ petitioners/respondents have not followed the instructions of their superiors and have attempted to short circuit the procedure by adopting Rule 8 on the basis of the alleged misconduct without conducting enquiry, the CAT was forced to interfere. The CAT



W.P.No.22995 of 2024

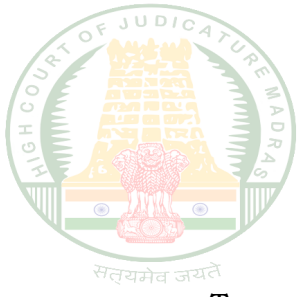
has applied the correct principles of law to the facts of the case. It is perfectly justified in concluding that no person can be turned out of service without a properly instituted enquiry when charges have been levied against him. We find no reasons to interfere in the impugned order.

25. In any event, this Court in exercise of powers under Article 226 of the Constitution of India is not sitting on appeal against the orders of the Tribunal. It is a visitorial or supervisory jurisdiction. We only have to see whether the Tribunal has applied the correct principles of law to the facts before it. In the previous paragraph, we have concluded that it has, in fact, done so. Consequently, the writ petition fails and it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

(M.S.R, J.) (V.L.N, J.)
14.07.2025

nl

Index : Yes
Speaking Order
Neutral Citation : Yes



W.P.No.22995 of 2024

WEB COPY

To

1.The Central Administrative Tribunal,
Madras Bench, Chennai



WEB COPY



W.P.No.22995 of 2024

M.S. RAMESH, J.
and
V.LAKSHMINARAYANAN, J.

nl

Writ Petition No.22995 of 2024

14.07.2025