

Union of India Vs. P.Sevakan

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Court : Chennai

Decided On : Dec-06-2013

Judge : N.Paul Vasanthakumar

Appellant : Union of India

Respondent : P.Sevakan

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS Dated :

6. 12-2013 Coram The Honourable Mr.Justice N.PAUL VASANTHAKUMAR and The Honourable Mr.Justice R. MAHADEVAN Writ Petition No.29896 of 2013 1. Union of India, rep.by The Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi 110 001.

2. The Chief Postmaster General, TamilNadu Circle, Anna Salai, Chennai 600 002.

3. The Director, Foreign post, Chennai 600 001. ... Petitioners Vs.

1. P.Sevakan 2. The Registrar, Central Administrative Tribunal, Madurai Bench, High Court Buildings, Chennai 600 104. ... Respondents Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari calling for the records relating to the order of the Central Administrative Tribunal, Madras Bench, passed in O.A.No.505 of 2012 dated 4.6.2013 and quash the

same. For Petitioner : Mr.G.Masilamani, Additional Solicitor General assisted by Ms.S.Seethalakshmi, Sr.Panel Counsel for Central Government For 1st Respondent : Mr.R.Malaichamy 2nd Respondent : Central Administrative Tribunal

ORDER

N. PAUL VASANTHAKUMAR, J.

This writ petition is filed by the Postal Department against the order made in O.A.No.505 of 2012 dated 4.6.2013, challenging the order granting family pension to the first respondent from 2.4.2008 as his wife died, who was employed in Group 'D' service in the Postal Department.

2. The first respondent prayed for a direction before the Tribunal to consider the services rendered by his wife in Group 'D' cadre for 9 years and 7 months along with the service rendered by her for about 24 years in GTS cadre and grant pension from the date of her retirement and family pension to the first respondent from the date of her death.

3. The first respondent's wife viz, S.Ruby initially entered into service in the office of the third petitioner in the year 1981 as Extra Department Packer (ED Packer), now re-designated as Gramin Dak Sevak (GDS Packer). She was a physically challenged person (Blind). After serving for 15 years as GDS Packer, she was absorbed to Group 'D' cadre by the third petitioner by order dated 29.2.1996. She served for nine years and seven months in the cadre of Group 'D' and retired on superannuation on 30.9.2005. The pension payable to the first respondent's wife was not sanctioned, and she died on 24.4.2008. The first respondent, who is also a physically challenged person (Blind), submitted various representations, which were not replied by the petitioners. On coming to know that similarly placed persons, who have rendered nine years and above, but less than ten years and even lesser period of service than the first respondent's wife were granted pension, first respondent submitted representation on 21.3.2012, for which also there was no reply. Hence O.A.No.505 of 2012 was filed before the Central Administrative Tribunal.

4. The said O.A.No.505 of 2012 was opposed by the petitioners contending that the first respondent's wife was not having ten years of qualifying service in Group 'D' cadre, and as per Rule 49(3) of CCS Pension Rules, 1972, unless qualifying service of ten years is available, pensionary benefits cannot be extended to the first respondent's wife till her death and family pension to the first respondent from 25.4.2008, the next date of her death.

5. The Tribunal following the earlier orders, allowed the original application by order dated 4.6.2013 and directed the Postal Department to grant pension to the first respondent's wife with effect from the date of her superannuation with arrears till her date and family pension to the first respondent from the next date of his wife's death viz., from 25.4.2008, with arrears of family pension, within a period of two months from the date of receipt of copy of the order. Against the said order, this writ petition is filed by the Postal Department.

6. The learned Additional Solicitor General appearing for the petitioners argued that the first respondent's wife having not possessed of 10 years of pensionable service, she has not satisfied Rule 49(3) of the CCS Pension Rules, 1972, and the Tribunal is not justified in allowing the Original Application and prayed for setting aside the order of the Tribunal.

7. The learned counsel for the first respondent on the other hand submitted that considering the ED Staff service of the first respondent's wife from the year 1981 and her continuous service till her superannuation on 30.9.2005, the Tribunal was justified in giving direction to the writ petitioners to treat the first respondent's wife has completed 10 years of qualifying service for the purpose of pension.

8. The learned counsel for the first respondent also relied on the judgment of the Division Bench of this Court made in Writ Petition No.45465 of 2002 dated 4.10.2007 (Union of India rep.by the Secretary, Dept. of Posts, Dak Bhawan, New Delhi 110 001 v. M.R.Palanisamy), wherein a similar issue was raised by an E.D.Staff, who served for 29 years before his permanent absorption as Group ".D". staff and he was ordered to be granted pension treating the person as completed 10 years of qualifying service, though he was having a regular service of 9 years, 3 months and 29 days, with reference to the E.D.Staff service. The said judgment

was challenged before the Hon'ble Supreme Court in SLP No.13829 of 2008 and the Hon'ble Supreme Court also dismissed the Special Leave Petition on 17.10.2008. Thereafter, the very same Department sanctioned pension to the said person, viz., M.R.Palanisamy by order dated 9.10.2009.

9. Even though the order of the Division Bench in Writ Petition No.45465 of 2002 dated 4.10.2007 restricted the relief only to the first respondent in the said Writ Petition, another Division Bench of this Court in Writ Petition No.22833 of 2010 (T.Jayaraman v. The Post Master General, Central Region, T.N.Circle, Trichy and others) noticing the similar set of facts allowed the Writ Petition by order dated 10.11.2010 noticing the earlier order, which was confirmed by the Supreme Court and which was also implemented by the Department.

10. Again, in the order dated 14.2.2013 passed by this Court in Writ Petition No.22496 of 2009, (Union of India, rep. by the Secretary, Department of Posts, Dak Bhavan, New Delhi 110 001 and others v. G. Thulasidasan), similarly placed person was ordered to be granted pension, considering the long number of years of service as E.D.staff, though the person was not having ten years of completed pensionable service.

11. A Division Bench of Karnataka High Court by order dated 25.3.2013 in Writ Petition No.72872 of 2012 (S-CAT) (Union of India, rep. by the Secretary, Department of Posts, Dak Bhavan, New Delhi 110 001 and others v. B.V.Dambal) also passed similar order.

12. In view of the consistent view taken on this aspect and the matter having been attained finality, it is not proper for the petitioners/Postal Department to repeatedly challenge the same issue before this Court.

13. Further, the facts in the above referred cases are exactly similar to the case of the first respondent as his wife served as E.D.Staff from the year 1981 and after 15 years of service, she was regularly absorbed as Group ".D". staff from 29.2.1996 and served in pensionable service of nine years and seven months. Further, the first respondent and her wife, who served in the Postal Department are blind persons, need sympathy not only from the Court, but also from the

petitioner Postal Department.

14. In view of the above, the decision rendered by the Tribunal requires no interference. The Writ Petition stands dismissed. No costs. The connected Miscellaneous Petition is closed. Index : Yes/No.(N.P.V.,J) (R.M.D.,J.) Internet : Yes/No.6-12-2013 vr To The Registrar, Central Administrative Tribunal, Chennai. N.PAUL VASANTHAKUMAR, J.

and R. MAHADEVAN, J.

vr Pre-Delivery Order in W.P.No.29896 of 2011 6-12-2013

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