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A.Kannayan Vs. Union of India

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Court : Chennai

Decided On : Nov-28-2013

Judge : N.Paul Vasanthakumar

Appellant : A.Kannayan

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED :

28. 11.2013 CORAM THE HONOURABLE MR. JUSTICE N.PAUL VASANTHAKUMAR AND THE HONOURABLE MR. JUSTICE R.MAHADEVAN W.P. NO.18988 OF2013A.Kannayan .. Petitioner Versus 1.Union of India, Rep.by the Secretary, Department of Posts, Dak Bhavan, New Delhi 110 001. 2.The Principal Chief Postmaster General, Taminadu Circle, Chennai 600 002. 3.The Postmaster General, Southern Region, Tamilnadu Circle, Madurai 625 002. 4.The Superintending of Post Offices, Dindigul Division, Dindigul 624 001. 5.The Registrar, Central Administrative Tribunal, Madras Bench, Chennai 600 104. .. Respondents PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the fifth respondent which is made in O.A.No.443 of 2011 by its common order dated 17.04.2013 and quash the same, consequent to direct the respondents 1 to 4 to grant pension and other retirement service benefits to the petitioner. For Petitioner : Shri.R.Malaichamy For Respondents-1 to 4 :

Shri.M.Devendran SCPSC For Respondent-5 : Tribunal * * * * *

ORDER

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ORDER

OF THE COURT WAS DELIVERED BY N.PAULVASANTHAKUMAR, J) Heard Shri.R.Malaichamy, learned counsel for the petitioner and Shri.M.Devendran, learned counsel for the respondents 1 to 4.

2. This Writ Petition is filed by the petitioner to quash the common order made in O.A.No.443 of 2011 dated 17.04.2013 by the Central Administrative Tribunal directing the respondents 1 to 4 to grant pension and other retirement service benefits to him.

3. The said order is challenged in this Writ Petition, by contending that the petitioner was appointed as Extra Departmental Delivery Agent/Mail Carrier (EDDA/MC) at Palakanuthu Branch Office, Dindigul on 08.08.1970 and he was promoted and appointed to the post of Postman with effect from 31.12.1998 on seniority basis and retired from service on 30.06.2008 on reaching the age of superannuation. The respondents / Department counted the pensionable service from 31.12.1998 to 30.06.2008, which comes to 9 years 6 months and 1 day. The said period being less than 10 years of qualifying service, the pension claimed by the petitioner was declined by order dated 05.08.2008 by the third respondent, confirming the order of the 4th respondent dated 12.07.2010. The said orders were challenged before the Central Administrative Tribunal by contending that the petitioner having worked in an officiating capacity as Postman for 9 years, 6 months and 1 day prior to his appointment as Extra Departmental Delivery Agent from 08.08.1970, the said period can also be counted as qualifying service. The Tribunal dismissed the Original Application.

4. The learned counsel appearing for the respondents 1 to 4 argued that the pensionary benefits could not be extended to the petitioner as he had not rendered the minimum service of 10 years in the cadre of Postman for grant of pension as

per Rule 49(2)(b) of the CCS Pension Rules, 1972 and the Tribunal is justified in dismissing the Original Application. Therefore, the learned counsel for the respondents 1 to 4 submitted that as the petitioner has put in only 9 years, 6 months and 1 day of qualifying service, pensionary benefits could not be extended to him.

5. The learned counsel for the petitioner on the other hand submitted that considering the ED Staff service of the petitioner from 08.08.1970 and his continuity upto 30.06.2008, the Tribunal dismissed the application by rendering that the petitioner has completed only 9 years and 9 months and not completed the qualifying service of 10 years for the purpose of sanction pension.

6. The learned counsel for the petitioner 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 and thereafter, the very same Department sanctioned pension to the said person, viz., M.R.Palanisamy by order dated 9.10.2009.

7. 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.

8. Again, in the order dated 14.02.2013 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.

9. 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.

10. Therefore, there is consistent view on this aspect and the matter having been attained finality, it is not proper for the petitioners/Postal Department to repeatedly challenge the order before this Court.

11. Further, the facts in the above referred cases are exactly similar to the case of the petitioner as he served as E.D.Staff from 08.08.1970 and after 28 years of service, he was appointed as postman from 31.12.1998.

12. In view of the above, the decision rendered by the Tribunal is set aside. The Writ Petition stands allowed. No costs. (N.P.V.,J.) (R.M.D.,J.) 28.11.2013 Index : Yes / No Internet : Yes / No sri To The Registrar, Central Administrative Tribunal, Madras Bench, Chennai 600 104. N.PAUL VASANTHAKUMAR, J.

AND R.MAHADEVAN, J.

sri W.P. NO.18988 OF201328.11.2013

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