

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 28th day of March Two Thousand And Ninteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)
THE HON'BLE MR. P. MADHAVAN, MEMBER(J)

M.A.202 of 2019
in &
OA No. 429 of 2019

1. C. Sundaravadivelu,
S/o. P. Chinnayan, Aged 59 years,
Salem- 636 403;
2. M.K. Sathyamoorthy,
S/o. A. krishnasami, Aged 59 years,
Salem - 636 303;
3. V. Palanisamy,
S/o. K. Venkatesan,
Aged 58 years,
Veerampad- 636 308;
4. V. Silembuselvi,
W/o. V. Govindaraju,
Aged 59 years,
Salem Dt- 636 502;
5. A. Malathi,
W/o. K. Govindan,
Aged 56 years;
6. G. Malliga, D/o. M. Govindan,
Salem- 636 007;
7. S.R. Parimala,
W/o. T. Vasudevan,
Aged 59 years,
Salem- 636 302;
8. S. Lilly, W/o. K. Uthirianathan,
Aged 54 years,
Salem;

9. S. Muthusamy, S/o. Sundangi,
Aged 56 years,
Salem(Dt);
10. P. Palaniappan,
S/o. V. Periasamy,
Aged 60 years,
Rasi Puram- 637 408;
11. R. Eswari, W/o. A. Manokaran,
Aged 59 years,
Salem Dt.
12. C. Helan Selvarani,
Aged 59 years,
Rasi Puram- 637 408;
13. K. Periasamy,
Aged 57 years,
Mangalapuram;
14. S. Sheela Juliet,
W/o. V.K. Saravanan,
Salem- 636 004;
15. R. Matheswaran,
Aged 59 years,
Thiruchengodu- 637 211;
16. P. Arthanari,
W/o.R. Palaniappan,
Aged 59 years,
Tiruchengodu- 637 214;
17. R. Meenalochani,
Aged 57 years,
Kalyan Nagar,
Bengaluru- 560 043;
18. K. Lathadevi,
Aged 60 years,
Mannargudi- 614 001;
19. V. Saroja,
Aged 59 years,
Shangolam SO- 614 016;

20. K. Rengaraj,
Aged 63 years,
Perambalur (Dt.)
21. V. Mani,
Aged 58 years,
Chevur, Arni- 632 316;
22. M. Syed Alavi,
Aged 60 years,
Masinagudi- 643 223;
23. S. Lilypushpam,
Aged 56 years ,
Udagamandalam;
24. S. Vijayalakshmi,
Aged 58 years,
Ooty- 643 001;
25. L. Shanthi,
Aged 60 years,
Westoda, Ooty- 643 001;
26. R. Manikandan,
S/o. H.M. Raman,
Aruvankadu- 643 202;
27. G. Leela,
Aged 59 years,
Koimbatore- 641 020.

....Applicants

(By Advocate: Mr. S. Ramaswamyrajarajan)

Vs.

1. Union of India Rep. by
The Secretary to Government of India,
Ministry of Communications,
New Delhi;
2. The Chief Postmaster General,
Tamilnadu Circle,
Chennai- 600 002;

3. The Postmaster General,
Western Region,
Coimbatore- 641 002;
4. The Superintendent of Post Offices,
Salem West Division,
Salem- 636 005;
5. The Superintendent of Post Offices,
Srirangam Division,
Trichy- 620 006;
6. The Superintendent of Post Offices,
Thiruvannamalai Division,
Thiruvannamalai;
7. The Superintendent of Post Offices,
Namakkal Division,
Namakkal- 637 001;
8. The Superintendent of Post Offices,
Nilgiri Division,
Udagamandalam.

...Respondents

(By Advocate: Mr. Su. Srinivasan)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. MA filed by the applicants seeking permission to join together to file a single OA is allowed.

2. The applicants have filed this OA seeking the following reliefs:-

"i) to quash the impugned order No. STA/Misc/Dlgs dated 17.12.2018 passed by the 3rd respondent on the authority of 1st and 2nd respondents;

ii) to direct the respondents to consider the case of the applicants in the light of the order dated 01.10.2013 given by the Hon'ble Ernakulam Bench of CAT in OA No. 79 of 2011 and the judgment dated 17.03.2017 given by the High Court of Kerala in O.P. (CAT) No. 89/2014(Z);

iii) to work out the vacancies that arose from 1984 onwards accommodate notionally against such vacancies on the basis of their year of recruitment, coupled with the order of merit and to grant TBOP benefit after 16 years of service taking into account the RTP service rendered by them and to grant MACP benefit from the date of regularization and to give all consequential benefits on re-fixing the pay and allowances accordingly and re-fixing the pensionary benefits in the case of retired employees and

iv) to pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case with costs."

2. The applicants are aggrieved by the rejection of their request for regularization by Annexure A/2 impugned order dated 17.12.2018 wherein it



is stated that the precedent cases relied upon by the applicants, claiming similar relief in line with the order of the Hon'ble High Court of Kerala in O.P. (CAT) No.89/2014 (Z) was only applicable to the individual applicants in the OA and was in personam. Further, the judgment was with reference to the case filed by the officials in Kerala Circle and could not be made applicable to the T.N. Circle unless Postal Directorate endorsed the same. On the other hand, the Directorate instructions contained in a letter dated 12.04.2012 were that "the service rendered under RTP scheme by the personnel prior to their regular appointment as PA/SA cannot be counted for promotion, seniority and grant of MACP."

3. Learned counsel for the applicant would seek notice to be issued to respondents for recalling the order of the respondents.

4. Mr. Su. Srinivasan, learned Standing counsel for Central Government takes notice for the respondents. On a pointed out query to the Learned Standing Counsel whether such a non-speaking order could be issued to reject a representation that relied on a judicial precedent without distinguishing the facts, the learned Standing Counsel would urge that the respondents be permitted to pass a detailed speaking order in the light of the law laid down by the Hon'ble Supreme Court in regard to judicial precedents as applicable to similarly placed persons.

5. We have considered the submissions. Hon'ble Apex Court, after considering various judicial precedents in this regard, laid down the legal principles in **State of U.P. & Ors vs. Arvind Kumar Srivastava & Ors - CA 9849/2014** as follows:-




"23) The legal principles which emerge from the reading of the aforesaid judgments, cited both by the applicants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach in the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fencesitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see **K.C.Sharma & Ors. V. Union of India** (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found



out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

6. Clearly, the impugned order has not been passed in terms of the aforesaid principles as its contents appear to be evasive. We, therefore, deem it appropriate to set aside the Annexure A/2 communication dated 17.12.2018 of the 3rd respondent at admission stage itself and direct the 2nd respondent to consider the claim of the applicants in accordance with law laid down by the Hon'ble Supreme Court and in the light of the order passed by the Hon'ble High Court of Kerala and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of this order. The respondents shall be at liberty to distinguish the case of the applicants, if their claim is based on facts different from those considered by the Hon'ble Kerala High Court.

7. The OA is disposed in the above terms. No costs.