

**Central Administrative Tribunal
Madras Bench**

OA 310/01545/2018

Dated Friday the 16th day of November Two Thousand Eighteen

P R E S E N T

**Hon'ble Mrs. Jasmine Ahmed, Member (J)
&
Hon'ble Mr. R.Ramanujam, Member(A)**

C. Elumalai
No. 31, Padmavathy Nagar Extension-II
Annai Anjugam Nagar Post
Nandhivaram Guduvanchery
Kanchipuram District – 603 211. .. Applicants

By Advocate **M/s. Menon, Karthik, Mukundan and Neelakantan**

Vs.

1. The Union of India
Rep. by its Secy to the Govt.,
Ministry of Communications
New Delhi.
2. The Director (Staff)
Department of Posts
Ministry of Communications & IT
New Delhi – 110 001.
3. The Postmaster General
Chennai Region
Chennai.

4. The Senior Superintendent, RMS
Chennai Airmail Sorting Division
Chennai – 600 027. .. Respondents

By Advocate Mr. Su. Srinivasan

ORAL ORDER

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

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

- “a. Declare that the applicant is entitled to be accommodated against the regular vacancy that arose in the next recruiting half-year subsequent to his selection as Reserve Trained Pool Sorting Assistant as directed by the Hyderbad Bench of this Tribunal and to direct the respondents to grant the applicant regular absorption with effect from the date of the regular vacancy which arose in the next recruiting half year subsequent to his selection as Reserve Trained Pool Sorting Assistant and to re-fix seniority and other consequential benefits accordingly
- b. Direct the respondent to regularise and count the service rendered by the applicant as Reserve Trained Pool from the date of initial appointment as Sorting Assistant with all consequential benefits as was implemented in the case of applicants in OA 779 & 780 of 2013”

2. It is submitted that the applicant is similarly placed as those in TA 82/1986 which was disposed of by the Jabalpur Bench of this Tribunal by order dated 16.12.1986 and upheld by the Hon'ble Supreme Court in SLP No. 11313/1987. Some other similarly placed persons approached the Hyderabad Bench of this Tribunal in OA 779 and 780/2013 which was allowed by the Tribunal by an order dated 15.04.2015 relying on the said judicial precedent. The respondents have challenged the same in WP No. 17400/2016 which is still pending before the Hon'ble Telangana and Andhra Pradesh High Court.

3. Attention is drawn to the interim order dated 10.03.2017 passed by the Hon'ble High Court wherein it has been recorded that the Senior Standing Counsel for the Central Government fairly conceded that the order dated 31.08.2010 passed by the Bombay Bench of this Tribunal in this regard in OA 719/1996 and batch had been implemented and that the same relief could be extended to the unofficial respondents therein. It is also seen that the order of the Bombay Bench, Camp Nagpur was in terms of the order dated 16.12.1986 passed by the Jabalpur Bench of the Tribunal in TA 82/1986. The learned Senior Standing Counsel had agreed that there could be no objection to granting the reliefs already granted to similarly placed persons as both the afore stated orders were duly implemented.

4. The grievance of the applicant herein is that his representation for being extended similar benefits had been rejected by Annexure A11 impugned order dated 11.10.2018 on the ground that it was applicable only to the individual applicants of the WP and were in personam.

5. Mr. Su. Srinivasan takes notice for the respondents.

6. We have considered the prayer at the admission stage. The law in regard to applicability of the ratio of the orders of Courts to similarly situated persons is well settled. The Hon'ble Apex Court has, in its judgment dated 17.10.2014 in the case of ***State of U.P.& Ors vs. Arvind Kumar Srivastava & Ors – CA 9849/2014*** enumerated the legal principles for dealing with the request made by similarly placed persons in the following terms:

“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 latches 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 latches 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 latches and delays or acquiescence.”

7. In view of the above principles, we have no hesitation to hold that the rejection of the request of similarly placed persons by a nonspeaking order merely stating that the order relied upon by them was implemented in personam is not in accordance with the law laid down by the Hon’ble Apex Court. We, therefore,

direct the respondents to review Annexure A11 impugned order dated 11.10.2018 and pass a reasoned and speaking order on the claim of the applicant to be treated similarly in the light of the orders of the Tribunal and the Hon'ble Telangana and Andhra Pradesh High Court relied upon by him and the aforesaid legal principles laid down by the Hon'ble Supreme Court within a period of three months from the date of receipt of copy of this order.

8. OA is disposed of at the admission stage.

(R. Ramanujam)
Member (A)

AS

16.11.2018

(Jasmine Ahmed)
Member(J)