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CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Wednesday 18th day of July Two Thousand And Eighteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/1261/2016

R. Parakalan, Aged 73 years,
S/o. Late Rengaswamy,
No.10, Vanjinathan Street,
Nilamangai Nagar,
Adambakkam,
Chennai- 600 088..

.....Applicant

(By Advocate : Mr. S. Ramaswamyrajarajan)

VS.

1. Union of India Rep. by
The Chie Postmaster General,
Tamilnadu Circle,
Chennai- 600 001;
2. The Postmaster General,
Central Region (TN),
Tiruchirapalli- 620 001;
3. The Director of Postal Services,
Central Region Tamilnadu,
Tiruchirappalli- 620 001;
4. The Senior Superintendent of Post Offices,
Virudurachalam Division,
Virudurachalam- 606 001.

... Respondents

(By Advocate: Mr.K. Rajendran)

ORAL ORDER

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

Heard both sides. This O.A has been filed by the applicant seeking the following reliefs:-

"1. To set aside the impugned order No. B1/75 dated 16.06.2016 passed by the 4th respondent and to allow the applicant to cross Efficiency Bar and to direct the respondents to grant due the increments that were left out by the respondents during the years 1989 to 1994 and to pay the consequential arrears pay and allowances, pensionary benefits and to refix the pension to that effect."

2. The applicant is aggrieved by Annexure A/14, communication dated 16.06.2016 rejecting his representation to be granted the Efficiency Bar (EB) increments after expiry of the penalty imposed on him on the ground that the correctness of his contentions could not be verified by the respondents since the matter related to 1985 to 1988 and his service book, personal file and relevant case files had been weeded out. It is submitted that following Rule 16 proceedings, the applicant was imposed with a penalty of withholding three increments for three years without cumulative effect. Later, based on a Rule 14 inquiry, his pay was reduced by three stages for two years without cumulative effect which penalty ended in November, 1994. After expiry of the period of punishment, the applicant was considered by Departmental Promotion Committee for EB crossing in the year 1994. However, his increments were not counted appropriately, it is alleged.

3. The applicant was proceeded against under Rule 14 of CCS (CCA) Rules again in 1999 and was imposed with the penalty of withholding of four increments for four years which, however, was set aside by the Department subsequently. After completion of the punishment period, the applicant made representations dated 29.2.2002 to the 4th respondent, dated 15.2.2003 to the second respondent and another one dated 17.2.2003 to the Officer in charge, Staff Grievances Cell, Tamil Nadu Circle, Chennai requesting for three increments that were not counted from 1994 and were only calculated at the time of EB crossing. There was no response to the above representations and in the meantime, applicant retired in the year 2003 on attaining the age of superannuation.

4. It is submitted that the applicant could not pursue the matter due to health reasons and he made a representation dated 26.11.2015 to the 4th respondent requesting him to grant increments that were omitted by the department during 1984-1994. The representation dated 26.11.2015 was followed up with reminder representations dated 7.3.2016, 23.4.2016 and 31.5.2016 to the 3rd respondent along with a calculation sheet of his basic pay. It is the last representation which had been rejected by the impugned order, aggrieved by which the applicant filed this O.A.

5. Learned counsel for the applicant would draw attention to the Postal Manual (Annexure-15) regarding Preservation of Records, para 11 of which states as follows:-

"11. The following records should not be destroyed on any account:-

- (a) Records connected with expenditure which is within the period of limitation fixed by law;
- (b) Records connected with the expenditure on projects, schemes or works not completed although beyond the period of limitation;
- (c) Records connected with claims to service and personal matters of affected persons in the service
- (d) Orders and sanctions of a permanent character, until revised.
(Para (a) of Appendix 5 of P & T F.H.B. Volume 1)"

It is accordingly submitted that records connected with claims to Service and Personal matters of affected persons in the service could not have been weeded out and if they were, the applicant would be entitled to benefit of doubt in this regard. Attention is also drawn to Annexure R1 filed by the respondents with regard to the period of preservation of various documents wherein it is mentioned that Pay Bill Registers are to be preserved for a period of 35 years. The respondents are, therefore, in a position to examine the Pay Bill Registers to ascertain the entitlement of the applicant to Efficiency Bar and, therefore, they ought not to have rejected his representation summarily, it is contended.

6. Learned counsel for the respondents would, however, draw attention to para 5.2 of the reply and submits that the provisions quoted by the applicant were not applicable as the said rule was irrelevant in the applicant's case. As per paras (b)(viii) & (b)(ix) of the Appendix-5 of the P & T Financial Handbook Volume I, as the applicant retired from service on

superannuation on 31.08.2003, his Service Book and the Personal files were weeded out on 30.09.2014. The Pay Bill Register of Kallakurichi HO and the schedules to the Establishment Pay bills for the year 1989 were weeded out on 20.11.2014 during Swachh Bharath activities.

7. I have considered the matter. It is not in dispute that the applicant retired on superannuation on 31.08.2003. If the applicant was not granted increments on Efficiency Bar due to him otherwise in accordance with the relevant rules, it is not clear what steps were taken by the applicant to agitate the matter with the competent authority before his retirement. The representations alleged to have been made by him dated 29.2.2002, 15.2.2003 do not carry any acknowledgements. Even assuming that such representations were made, if no reply was received, the applicant was at liberty to resort to legal remedies which he did not choose to avail of. Further, it had taken 12 long years even after retirement for him to make his first representation, on the rejection of which he has approached this Tribunal in 2016. At the same time, the respondents' reply regarding weeding out of records is vague in as much as it does not explain how the relevant rule said to have been extracted from Postal Manual to the effect that personal records should not be weeded out was not applicable to the applicant's case. Further, even according to the respondents' own contention, Pay Bill Register ought to be preserved for 35 years (Annexure R-1). As such, no explanation is offered how it was weeded out in 2014.

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8. In the above facts and circumstances of the case, I am of the view that this O.A. could be disposed of with the following direction:-

"The first respondent shall examine if the personal records in respect of the applicant alleged to have been weeded out in 2014, were indeed weeded out; and if so, whether such action was appropriate and in accordance with the rules. If the first respondent arrives at a conclusion that the records were not correctly weeded out for no fault of the applicant, he shall reconsider the Annexure -A/14 communication and pass a reasoned order on the claim of the applicant. Needless to say that in the event of records not having been weeded out, the applicant's claim shall be re-examined in the light of available records and a reasoned and speaking order passed within a period of six months from the date of receipt of copy of this order."

9. It is clarified that the merits of the applicant's claim have not been gone into in this O.A. and the respondents are at liberty to pass an order in accordance with law. OA is disposed of in the above terms. No costs.