CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 6th day of June Two Thousand And Ninteen

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

OA.310/681/2019

E. Veeraraghavan (M/64),
S/o. Ethiraj Naicker,
Fitter/Skilled (T.No. 44639/PMT.No.5674),
Heavy Vehicle Factory, Avadi,
Chennai- 600 054. ....Applicant

(By Advocate: M/s. D. Magesh)

Versus

1. The Union of India Rep. by
The Secretary to the Government of India,
Ministry of Defence,
South Block,
New Delhi-11;

2. The General Manager
Heavy Vehicle Factory,
Avadi, Chennai- 600 054;

3. The Controller of Finance and Accounts,
Heavy Vehicles Factory,
Avadi, Chennai- 600 054. ...Respondents

(By Advocate: Mr. Su. Srinivasan)

O R A L O R D E R

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

Heard. Applicant has filed this OA seeking the following relief:-

> "to call for the record of the order of the 2nd respondent dated 4.6.2018 and quash the same and to direct the respondents to regularize in full the casual service rendered by the applicant herein from the date of their initial appointment with all consequential benefit and pass such further or other orders as may be deemed fit and proper."

2. Learned counsel for the applicant submits that the applicant sought the benefit of casual service rendered prior to regularization relying on the orders passed by the Hon'ble High Court of Madras in W.Ps. No.2598/2010 & 19434/2009 and the orders of the Tribunal in O.A.310/128/2015 dated 12.10.2015, O.A. No. 841/2013 dated 16.11.2016 and O.A. No. 705/2013 dated 28.09.2013. His representation was turned down on the ground that such relief was being granted only to the applicants therein. It is submitted that a representation by similarly placed persons relying on judicial precedents could not be rejected in such a manner as it is contrary to the law laid down by the Hon'ble Supreme Court in this regard.

3. It is pointed out that 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 theform 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."

4. It is also submitted that similar cases have been disposed of by this Tribunal at the admission stage setting aside the impugned orders and directing the competent authority to pass a reasoned and speaking order in accordance with the law laid down by the Hon'ble Apex Court.

5. Mr. Su. Srinivasan, Learned Standing Counsel takes notice for the respondents and submits that respondents would not be averse to passing a reasoned order in accordance with law if so directed by the Tribunal. He prays for three months' time for this purpose.

6. Keeping in view the above submissions, this OA is disposed of with a direction to the competent authority to review their Annexure-A/11 communication dated 04.06.2018 in respect of the applicant and pass a reasoned and speaking order in accordance with the law laid down by the Hon'ble Supreme Court within a period of three months from the date of receipt of a copy of this order. No costs.

(R. RAMANUJAM)
MEMBER (A)

06.06.2019

Asvs.