

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

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

PRESENT:

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

M.A. 708 of 2018
In &
OA. 1734 of 2018

1. D. Murugesan, S/o. M. Dhandapani,
Aged 59 years, Pollachi;
2. S. Nirmala Devi, W/o. M. Natarajan,
Aged 56 years, Udamalpet;
3. L. Rani, W/o. N. Sundaram,
Aged 59 years, Pollachi;
4. S. Kalaiselvi, W/o. C. Natarajan,
VOC Colony, Avanasi;
5. T. Shenbagavalli, W/o. Arasan,
Aged 53 years, Pollachi;
6. B. Ramasubramaniam,
S/o. R. N. Baladhandapani,
Aged 59 years, Udamalpet;
7. P. Meenakshi, W/o. Pattabiraman,
Aged 59 years, Kaniyur;
8. G. Jayalakshmi, W/o. Venkatesh,
Aged 57 years, Udamalpet;
9. L. Jawahar, S/o. Lakshmanan,
Aged 56 years, Udamalpet;
10. P. Thilakam, W/o. Jeganathan,
Aged 57 years, Salem;
11. S. Kokilam, W/o. Gunam,
Aged 57 years,
Valapady;

ASVS.

12. S. Malathy,
C/o. K. Seethalakshmi,
Salam;
13. P.S. Selvi,
W/o. Antoinisamy,
Aged 56 years,
Thammamapatti;
14. P. Umamaheswari,
W/o. T.P. Premsagar,
Aged 59 years,
Salem;
15. K. Seethalakshmi,
W/o. Venkataraman,
Aged 56 years,
Salem;
16. S. Sudhamani,
W/o. Pandian,
Aged 56 years,
Salem;
17. V. Jayanthi,
W/o. Murugamanickam,
Aged 59 years,
Salem- 636 006;
18. K. Lakshmanan,
S/o. T.V. Muthusamy,
Aged 58 years, Salem;
19. P. Poongodi,
W/o. Selvarajan,
Aged 55 years,
Salem;
20. N. Sumathi,
W/o. Sundararraman, Aged 55 years
Salam;
21. K. Senthamaraiselvi,
Aged 53 years,
Salem-8;

22. S. Mumtaj Begam,
W/o. Abdul Aleem,
Aged 52 years,
Salem-15;
23. K.P. Ajitkumar,
S/o. K.G. Prabaharan,
Aged 52 years,
Wellington;
24. E. Angayar Kanni,
W/o. J. Ilangovan,
Aged 59 years,
Pollachi;
25. A.P. Subramanianm,
S/o. R. Palani,
Aged 57 years,
Jakkar Palayam;
26. B. Parama Sivam,
Pollachi- 642 123;
27. K. Kumudam,
W/o. M. Subramaniam,
Thirupur- 641 604;
28. S. P. Matheswari,
Aged 54 years,
Odeya Patti;
29. V. Manjula,
Ammapet,
Selam-3;
30. N. Mathuravalli,
Kunjan Street,
Salem-1;
31. R. Marchy Thabarani,
Ramanatha Puram,
Salem-8;
32. S. Sundavaradan,
Atur;

33. K. Rajendrababu,
C. Kalaisamy,
Salem Dist.;
34. R. Muthulakshmi,
Rtd. Postal Assistant,
Maravaneri, Salem-73;
35. M. Kaliappan,
Rtd.SPM,
Maravaneri,
Salem;
36. Antony Arokyasamy,
Retd. PA,
Alagapuram,
Salem-4;
37. D. Shanmugam,
Paithur, Pudurpet;
38. M. Ramajayam,
Gandhi Nagar,
Thammampatti;
39. D. Jayanthi,
Reddiyur Asirvadam,
Salem-4;
40. K. Subramaniam,
S/o. N. Krishnamoorthy,
Aged 58 years,
SPM, Dindigul;
41. M. Balasubramaniam,
S/o. Meenakshi Sundaram,
Aged 56 years,
Ambatturai RS;
42. S. Vijaya Lakshmi,
D/o. A. Subramaniya Pillai,
Aged 57 years,
PA, Dindigal HO;
43. S. Vasantha,
D/o. P. Selvaraj,
Aged 58 years,
Dindigal HO;

44. M. Mahalakshmi,
D/o. A. Marimuthu,
Aged 55 years,
Palani HO;
45. P. Rengasamy,
S/o. Palanichamy,
Palanibazar SO;
46. B. Nandakumar,
S/o. Balavenkatraman Chettiar,
Aged 60 years,
Palani;
47. T. Venkatachalapathy,
S/o. K.M. Thyagarajan,
Karur;
48. K. Palanisamy,
Aged 60 years,
Aravakurichi;
49. R. Sukumar, S/o. Ramachandramoorthy,
Aged 57 years,
Karur;
50. K. Ravichadran,
S/o. Kannusamy Nattar,
Aged 56 years,
Ayyampalayam SO;
51. S. Vimala,
Aged 58 years,
Mannargudi;
52. Jenbagalakshmi II,
Aged 54 years, Vadavur Road,
Mannargudi;
53. U. Chandrodhayam,
Aged 58 years,
Melavasal,
Mannargudi;
54. C. Idayanathan,
Thanjavur;

55. N. Kamaraj,
Aged 57 years,
MCSR Street,
Kumbakonam;
56. U. Bama,
Aged 53 years,
Thanjavur;
57. S. Vijaya Lakshmi,
Aged 59 years,
Medical College Road,
Thanjavur;
58. S. Thillai Nayagi,
Aged 59 years,
Thanjavur;
59. N. Malathy,
Aged 58 years,
Thanjavur;
60. S. Malaini,
Aged 57 years,
Thanjavur;
61. S. Lakshmi,
NK Road,
Thanjavur;
62. G. Kalaimagal,
Aged 59 years, NK Road,
Thanjavur;
63. R. Devika,
Aged 58 years,
Thanjavur;
64. N. Rajam,
Aged 51 years, NK Road,
Thanjavur;
65. P. Thirumagal,
Aged 58 years,
R.S. College PO,
Thanjavur;

66. K. Danusu Rani,
D/o. Kalyanasundaram,
Saakkottai;
67. M. Gayathri,
Aged 54 years,
Thanjavur-7;
68. A.G. Chandrasekaran,
S/o. Gopalan, Aged 58 years
Pollachi;
69. M. Devathai,
W/o. A.G. Chandrasekaran,
Pollachi;
70. C. Mohanraj,
S/o. Chinnappan,
Pollachi;
71. B. Ida,
W/o. Francis,
Aged 59 years,
Angalakurichi;
72. S. Hariharan,
S/o. K.S. Shanmugasundaram,
Aged 58 years,
Pollachi;
73. S. Manickavasagan,
S/o. S. Subbiah,
Pollachi;
74. P. Kannan,
S/o. Periyasamy,
Aged 60 years,
Villiupuram;
75. J. Jayachandran,
S/o. C. Jayaraman,
Aged 56 years,
Villupuram;
76. N. Krishnamoorthy,
S/o. Narayanasamy,
Aged 56 years,
Tindivanam;

77. G. Govindaraj,
S/o. S. Gurusamy,
Aged 57 years,
Villupuram;
78. B. Raghubathi,
S/o. G. Balasundaram,
Aged 57 years,
Brahmadesam;
79. R. Devarajan,
S/o. K. Rajagopal,
Rettanai;
80. S. Neelabai,
W/o. Venkatraman,
Aged 59 years old,
Salamedu;
81. R. Mohan,
S/o. K. Rangaiah,
Aged 60 years,
Madambakam,
Chennai;
82. S. Rajamani Sreenivasan,
W/o. K. Sreenivasan,
Aged 61 years,
Udamalai Pet;
83. P.G. Lakshmi,
No. 17, Rajarathinam Nagar,
Old Kattpadi;
84. A.S. Annamalai,
S/o. A.L. Subramaniam,
Aged 56 years,
Uthikuli Zamin;
85. M. Alagi,
Aged 60 years,
Eripalayam;
86. S. Jahangir,
S/o. S. Sahul Hameed,
M.K. Patti,
Pollachi;

87. P. Dhanapal,
S/o. R. Prrahladan,
Aged 61 years,
Koilpalayam;
88. K. Padmavathi,
W/o. S. Murugan,
Aged 59 Years,
Pollachi;
89. R. Jaya Lakshmi,
W/o. S. Sivaraj,
Aged 55 years,
Pollachi;
90. S. Bhuvaneswari,
W/o. Late Krishnaswamy,
Aged 55 years,
Pollachi-1;
91. M. Indrani,
Aged 61 years,
Perambalurm;
92. P. Ayyasamy,
V. Kalathur;
93. A. Swamynathan,
S/o. S. Arumugam,
Aged 60 years,
Pollachi;
94. V. Maragatham,
W/o. Viswanathan,
Aged 56 years,
Chennai;
95. N. Rathnasamy,
S/o. Nachimuthu Goundar,
Pungamuthur.

....Applicants

(By Advocate: Mr. S. Ramaswamy Rajarajan)

Versus

1. Union of India Rep. by
The Secretary to Government of India,
Ministry of Communications,
New Delhi- 110 001;
2. The Chief Postmaster General,
Tamilnadu Circle,
Chennai- 600 002;
3. The Superintendent of Post Offices,
Pollachi Division,
Pollachi;
4. The Superintendent of Post Offices,
Thirupur Division,
Thirupur;
5. The Superintendnet of Post Offices,
Udagamandalam Division,
Udagamandalam;
6. The Superintendent of Post Offices,
Salem West Division,
Salem;
7. The Senior Superintendent of Post Offices,
Dindigul Division,
Dindigul;
8. The Superintendent of Post Offices,
Karur Division,
Karur;
9. The Superintendent of Post Offices,
Mannarkudi Division,
Mannarkudi;
10. The Senior Superintendent of Post Offices,
Pondicherry Division,
Pondicherry;

11. The Senior Superintendent of Post Offices,
Vellore Division,
Vellore;
12. The Senior Superintendent of Post Offices,
Coimbatore Division,
Coimbatore;
13. The Superintendent of Post Offices,
Thiruvannamalai Division,
Thiruvannamalai;
14. The Superintendent of Post Offices,
Srirangam Division,
Srirangam.

...Respondents

(By Advocate: Mr. Su. Srinivasan)

ORAL ORDER

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

Heard. The MA has been filed by the applicants seeking permission to join together on the ground that the cause of action and relief sought are one and the same for all the applicants. Accordingly, the MA is allowed.

2. This OA has been filed by the applicants seeking the following relief:-

"(i) To quash the impugned order No. STA/76-101/RTP/18 dated 08.06.2018 passed by the 2nd respondent on the authority of 1st respondent and impugned order No. B1/RTP/Dlgs, dated 12.09.2018 passed by the 13th respondent;

(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 judgement dated 17.03.2017 given by the High Court of Kerala in O.P (CAT) No. 89 of 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

II

(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."

3. The applicants are aggrieved by the rejection of their request for regularization by Annexure A/2 impugned order dated 08.06.2018 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."

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

5. 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.

6. We have considererd 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."

7. 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 08.06.2018 of the 2nd 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.

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