

In the High Court of Judicature at Madras

Dated : 02.2.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice P.R.SHIVAKUMAR

Writ Petition No.2364 of 2015 and M.P.No.1 of 2015

- 1.Union of India, rep.by its
Secretary, Ministry of Health
& Family Welfare, Department
of Health, Nirman Bhavan,
New Delhi.
- 2.The Chief Postmaster General
Tamilnadu Circle, Anna Road
H.O., Chennai-2.Petitioners
- Vs
- 1.R.Dakshinamurthy, Retired
Superintendent RMS (Sorting)
- 2.The Registrar, Central Administrative
Tribunal, Madras Bench, Chennai-104.Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records of the second respondent herein culminating with its order
dated 5.6.2013 passed in O.A. No.814 of 2011 by the second
respondent and quash the same.

For Petitioners : Mr.M.Vaidyanathan

ORDER OF THE COURT WAS MADE BY V.RAMASUBRAMANIAN, J

This writ petition is filed by the Union of India against the
order of the Central Administrative Tribunal, directing the second
petitioner to grant full reimbursement of the medical expenses
incurred by the first respondent in this writ petition.

2. We have heard Mr.M.Vaidyanathan, learned Central Government Standing Counsel for the petitioners.

3. The first respondent in this writ petition retired as a Superintendent in the RMS Madras Sorting Division. After retirement, the first respondent's wife fell seriously ill and her condition became critical. She was admitted in the Apollo Hospital and she was found to have a tumour in the brain. After prolonged treatment, she succumbed to the illness on 16.12.2010. Thereafter, the first respondent claimed reimbursement of the medical expenses to the tune of Rs.2,57,860.74 Ps. The first respondent was not covered by CGHS Scheme and that is why he was constrained to admit his wife in a private hospital under emergency condition.

4. However, the claim of the first respondent was rejected by an order dated 11.3.2011 on the ground that the first respondent was not covered by the CGHS Rules and that the Rules do not apply to retired officials. Therefore, the first respondent filed an application in O.A.No.814 of 2011 on the file of the Central Administrative Tribunal, Madras Bench. The said application was allowed by the Tribunal by an order dated 5.6.2013, aggrieved by which, the Union of India is before this Court.

5. All that the Tribunal had done is only to follow similar orders passed by the Bangalore Bench of the Tribunal in O.A.No.704 of 2001. Under similar circumstances, the other employees were granted the benefit by order of the Tribunal.

6. It appears that the special leave petitions are pending against those orders. However, no finality has been reached and the orders of the Tribunal are not stayed by the Supreme Court. Therefore, the Madras Bench wanted to take a uniform view, on par with the view taken by the other Benches, in the absence of a stay of those orders by the Supreme Court.

7. As a matter of fact, the Bangalore Bench of the Tribunal had actually held office memorandum dated 17.12.1990 as applicable and the subsequent order of the year 1996 to be violative of Articles 14 and 16 of The Constitution. Once a circular, on the basis of which the claim of the first respondent is rejected, is held to be unconstitutional, the application of the benefit of the same should be uniform to all retired pensioners. Hence, we find no illegality in the order of the Tribunal warranting interference.

8. Accordingly, the writ petition is dismissed. Consequently, the above MP is also dismissed.

Sd/-

Asst.Registrar (CS IV)

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Sub Asst. Registrar

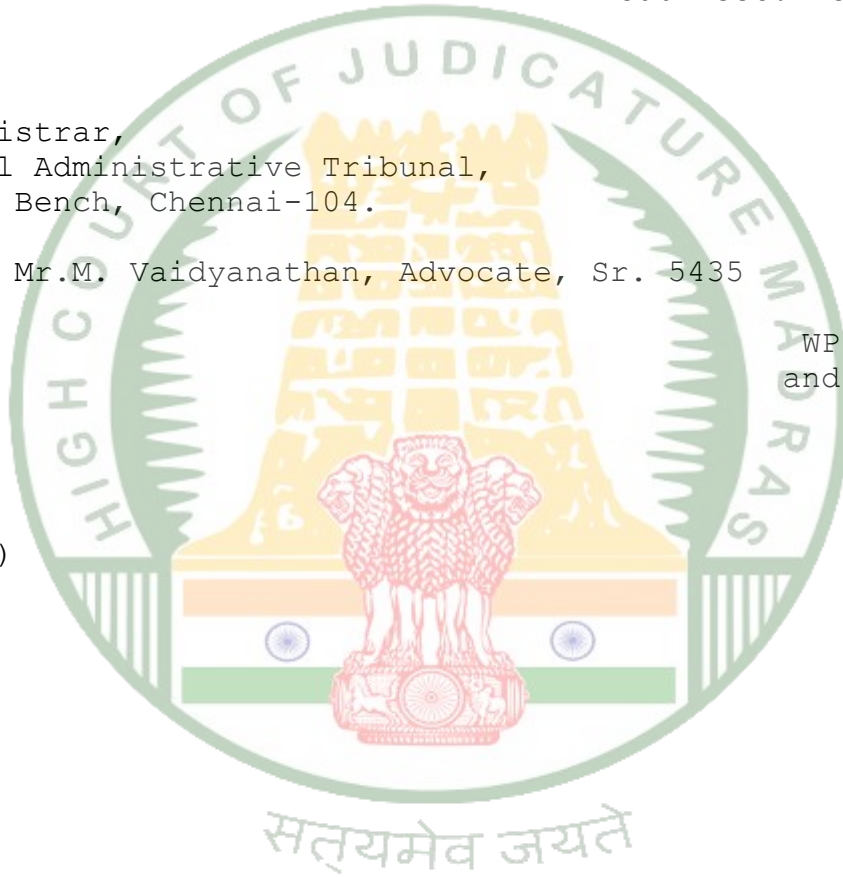
To

The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai-104.

1 cc to Mr.M. Vaidyanathan, Advocate, Sr. 5435

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and MP.No.1 of 2015

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