

IN THE HIGH COURT OF JUDICATURE AT MADRAS

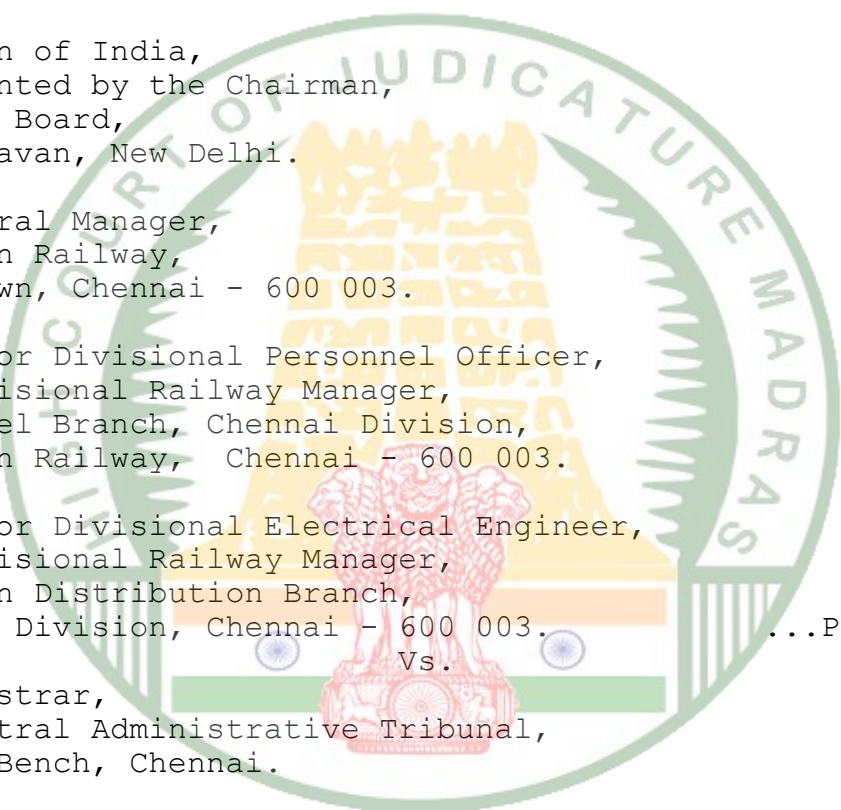
DATED : 14.03.2017

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THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.26528 of 2015 and
WMP.No.1 of 2015

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- 1.The Union of India,
Represented by the Chairman,
Railway Board,
Rail Bhavan, New Delhi.
- 2.The General Manager,
Southern Railway,
Park Town, Chennai - 600 003.
- 3.The Senior Divisional Personnel Officer,
O/o Divisional Railway Manager,
Personnel Branch, Chennai Division,
Southern Railway, Chennai - 600 003.
- 4.The Senior Divisional Electrical Engineer,
O/o Divisional Railway Manager,
Traction Distribution Branch,
Madras Division, Chennai - 600 003. ...Petitioners
- Vs.
- 1.The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.
2. T.N. Krishnamoorthy. सत्यमेव जयते ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the entire records of the first respondent in O.A.No.1501 of 2013 and quash the order passed therein dated 20.03.2015.

For Petitioners : Mr.A.P.Srinivas

For Respondents : Mr.P.Mohanaraj for R2
R1 - Tribunal

O R D E R

K.K.SASIDHARAN, J.

The second respondent was removed from service by the Southern Railway, pursuant to the disciplinary proceedings initiated against him. While passing orders removing him from service, the Disciplinary Authority sanctioned Compassionate Allowance to him under Rule 64 of Railway Service (Pension) Rules, 1993. The order was passed on 7 July 2003. The Compassionate Allowance was not paid subsequently. The petitioner was informed orally that he was not eligible for Compassionate Allowance on account of his qualifying service less than 10 years. The second respondent, therefore, filed Original Application before the Tribunal. The Tribunal allowed the Original Application in O.A.No.1501 of 2013. The said order is under challenge at the instance of the Railway Board and the Southern Railway.

2. We have heard the learned Standing Counsel for the petitioners and the learned counsel for the second respondent.

3. The second respondent was employed in Southern Railway. He was removed from service, by order dated 26 September 1988. Thereafter, he was re-appointed by order dated 28 January 1992. The second respondent was once again removed from service on account of unauthorised absence by order dated 13 May 2002.

4. The competent authority, by order dated 7 July 2003 sanctioned Compassionate Allowance to the second respondent. The second respondent has been receiving pension, pursuant to the order dated 7 July 2003.

5. The Railways discontinued the disbursement of pension primarily for the reason that for such grant, the employee should have served for a period of 10 years.

6. Rule 65 of the Railway Service (Pension) Rules provides for payment of Compassionate Allowance. There is no condition prescribed in the said Rule that the employee must have 10 years of service for claiming Compassionate Allowance. The grant of Compassionate Allowance is a matter of discretion of the competent authority. The competent authority has to consider the case of the employee, who was dismissed or removed from service. The authority must arrive at a satisfaction that the case of the employee deserves special consideration. No other condition is attached to the provision regarding grant of Compassionate Allowance.

7. The Competent Authority having found that the second respondent deserves grant of Compassionate Allowance passed an order to that effect. The order was passed on 7 July 2003. It was only on 10 December 2012, the Railways took an unreasonable stand that the second respondent is not entitled to Compassionate Allowance. When the Rule is very clear, it is not open to the Railway Administration to impose a condition of 10 years of service for grant of Compassionate Allowance. This aspect was rightly considered by the Tribunal. The Tribunal was therefore correct in allowing the Original Application. We do not find any reason to take a different view in the matter.

8. In the up shot, we dismiss the writ petition. The petitioners 2 to 4 are directed to pay the arrears to the second respondent within a period of four weeks from today and continue to pay the Compassionate Allowance continuously as indicated in the order dated 7 July 2003. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

- 1.The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.
- 2.The Chairman, Union of India,
Railway Board,
Rail Bhavan, New Delhi.
- 3.The General Manager,
Southern Railway,
Park Town, Chennai - 600 003.
- 4.The Senior Divisional Personnel Officer,
O/o Divisional Railway Manager,
Personnel Branch, Chennai Division,
Southern Railway, Chennai - 600 003.
- 5.The Senior Divisional Electrical Engineer,
O/o Divisional Railway Manager,

Traction Distribution Branch,
Madras Division, Chennai - 600 003.

+1cc to Mr. Lakshmi Narayanan, Advocate Sr. 15988

+1cc to Mr. Srinivas, advocate Sr. 15903

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MG(CO)
VR(13/04/2017)



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