

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2999 OF 2018

Union of India and ors. ...Petitioners
Versus
Rajendra P. Lalzare ...Respondents

Mr. Vinod Joshi a/w. Mr. D.A. Dube for the Petitioner/UOI.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.
DATE : 24th APRIL 2018.**

P.C.:

1] Heard Mr. Joshi, learned counsel for the petitioners/UOI.

2] The challenge in this petition is to the judgment and order dated 31st July 2014 made by the Central Administrative Tribunal (CAT), Mumbai in O.A. No. 771 of 2013 partly allowing O.A. No. 771 of 2013 instituted by the respondent seeking certain benefits on account of permanent disability incurred by him.

3] The respondent had applied for the following two reliefs on the basis of permanent disability admittedly incurred by him:

- (a) for transport and conveyance allowance at enhanced rates with effect from 11th August 2010;
- (b) for compensation/costs of Rs.20 lakhs;

4] By the impugned judgment and order, the CAT has rejected the respondent's prayer for compensation/costs of Rs.20 lakhs, but has directed the petitioners to pay to the respondent transport/conveyance allowance at enhanced rate with effect from 11th August 2010.

5] Mr. Vinod Joshi, learned counsel for the petitioners, does not dispute the factum of permanent disability incurred by the respondent. Mr. Joshi states that the petitioners are not only agreeable, but have actually started awarding the respondent transport/conveyance allowance at enhanced rates with effect from on 1st June 2012.

6] However, Mr. Joshi submits that the CAT has erred in directing the petitioner to pay such transport/conveyance allowance at enhanced rates with effect from 11th August 2010 and such direction, ought to have been for payment with effect from 1st June 2012. Mr. Joshi reasons that the issue of payment of transport/conveyance allowance to physically challenged employees is governed by O.M. dated 31st August 1978, which provides that such allowance has to be granted with effect from the date, the recommendation of the concerned medical authority is received by the Head of Department and not on any earlier date. He submits that in the present case, since the recommendation from J.J. Hospital, which is a concerned medical authority, was received only on 1st June 2012, the petitioners have no objection whatsoever to grant transport/conveyance allowance with effect from 1st June

2012. However, Mr. Joshi submits that there is no justification for grant of such benefit from any date prior to 1st June 2012.

7] Now the record clearly indicates that the J.J. Hospital itself had submitted a certificate on 11st August 2010 certifying the disability of the respondent. Instead of acting on the basis of such certificate, the petitioners, chose to make a reference to J.J. Hospital on 14th March 2011 and on basis of such reference, after delay of more than 14 months, J.J. Hospital issued yet another certificate dated 1st June 2012, which, reiterates the findings as to the medical condition of the respondent as reflected in its previous certificate dated 11st August 2010. Besides, there is no dispute that on account of accident which took place in the year 2009, the respondent sustained injuries which have led to permanent disability of 55% as certified by J.J. Hospital.

8] This means that there was ample material on record to establish that the respondent had suffered from permanent disability and that necessary certificate to this effect from the prescribed medical authority, i.e. J.J. Hospital was available with the petitioner on 11st August 2010. In these circumstances, there is nothing wrong in the view taken by the CAT that the petitioners should pay the transport/conveyance allowance at the enhanced rates in accordance with its own policy with effect from 11th August 2010.

9] There is neither any jurisdictional error in the view taken by the CAT nor the view taken, is vitiated by any perversity or non-application of mind.

10] For the aforesaid reasons, we see no good ground to interfere with the impugned judgment and order. This petition is therefore, dismissed. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)