

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8346 of 2018

S.Pitchai Namasivayam

...

Petitioner

Vs.

1.The Divisional Security Commissioner
Railway Protection Force South Railway
Palghat Division, Palghat, Kerala State.

2.The Chief Security Commissioner
Railway Protection Force
Southern Railway
Moore Market Complex, Chennai-3.

3. The Senior Divisional Finance Manager
Palghat Division Office
South Railway, Palghat
Kerala State - 678 001.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the Provident Fund amount (P.F.A/c.No.258162), Gratuity and Surrender Leave to the petitioner with interest at 12% per annum.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.P.T.Ramkumar

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondent to disburse the Provident Fund amount (P.F.A/c.No.258162), Gratuity and Surrender Leave to the writ petitioner with interest @ 12% per annum.

2.The learned counsel appearing for the writ petitioner states that the petitioner joined in the Railway Protection Force on 21.06.1963 as Rakshak (Constable) and posted at PGT (Palghat) Division Southern Railway. The petitioner was promoted

as Assistant Sub-Inspector and after rendering about 25 years of service he was removed from service on 26.09.1992. The petitioner filed W.P.No.11687 of 1993 challenging the order of removal and the same was dismissed. Subsequently, the writ petitioner filed the writ appeal in W.A.No.392 of 2002, which was also dismissed. On account of the financial condition, he was unable to approach the Hon'ble Supreme Court of India and made a representation for granting compassionate allowance as per Railway Board Notification No.F(E) 111/2003/PN1/5, dated 09.03.2005.

3.This apart, the petitioner filed W.P.(MD) No.10329 of 2011 seeking direction to consider the representation submitted by the writ petitioner. This court issued direction. However, the authorities have rejected the claim of the writ petitioner for compassionate allowance. Therefore, the writ petitioner was constrained to submit another representation to settle his Provident Fund amount, which was contributed, when he was in service.

4.The learned counsel appearing for the writ petitioner states that the contribution of the employee cannot be denied even after inflicting the punishment of removal on the writ petitioner and therefore, the petitioner is entitled to get the Provident Fund amount along with the interest. In this regard, the petitioner submitted a representation to the respondents 1 to 3. However, the same is yet to be considered.

5.The learned counsel appearing on behalf of the respondents states that the petition is not maintainable in view of the fact that the writ petitioner had served at Palghat Division in Kerala State and therefore, this court cannot entertain the present writ petition for want of jurisdiction.

6.However, the learned counsel for the petitioner drawn the attention of this court in respect of the representation sent by the writ petitioner on 02.08.2014, which is enclosed in page No.3 of the typed set of papers. In para 2 of the said representation, it is stated that the writ petitioner was working at Coimbatore /Railway Police Force Post. Relying on the same the learned counsel for the petitioner states that at the time of relieving, the writ petitioner had served at Coimbatore which falls under the jurisdiction of this court. When an employee was in service at the time of relieving at Coimbatore, then the contention of the respondents cannot be considered. Further, Coimbatore is falling under the Palghat Division and therefore, the same cannot be a ground for rejection of the present writ petition. As part cause of action arose at Coimbatore, in view of the fact that the writ petitioner had served at Coimbatore at the time of relieving from the service.

This being the factum of the case, the writ petition need not be dismissed merely on the ground of maintainability.

7.This apart, Provident Fund amount is to be settled in accordance with Rules in force. The authorities competent are bound to consider the same with reference to the rules in force. Under these circumstances, the respondents 1 and 3 are directed to consider the representation submitted by the writ petitioner on 28.02.2018 and pass orders on merits and in accordance with law, within a period of twelve(12) weeks from the date of receipt of a copy of this order. The writ petitioner is directed to enclose a copy of the representation and all other relevant documents along with the order passed in this writ petition.

8.Accordingly, the writ petition stands disposed of. However, there is no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

maya

+1cc to Mr.R.Subramanian, Advocate Sr.No.27165
+1cc to Mr.P.T.Ram kumar, Advocate SR.No.26718

SSV(CO)
sm:25.4.2018

W.P.No.8346 of 2018

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