

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.8.2018

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE S.S.SUNDAR

Writ Petition Nos.12493 to 12496 of 2017

The Union of India
rep. by its General Manager
southern Railway
Chennai 600 003.

Divisional Railway Manager
Chennai Division
Southern Railway
Park Town
Chennai 600 003.

The Chief Personnel Officer
Southern Railway
Park Town
Chennai 600 003.

The Senior Divisional Personnel Officer
Chennai Division
Southern Railway
Park Town
Chennai 600 003.

The Senior Divisional Electrical Engineer
Rolling Stock
Southern Railway
Avadi
Chennai 600 109.

Petitioners in
.. all W.Ps.

Vs.

B.Rajendran

.. Respondent-1 in
WP No.12493/17

M.Kanniyappan

.. Respondent-1 in
WP No.12494/17

Narni M.V.V.S.N.Murthy

.. Respondent-1 in
WP No.12495/17

V.P.Pankajakshan

.. Respondent-1 in
WP No.12496/17

The Registrar
Central Administrative Tribunal
Madras Bench
Chennai.

Respondent-2 in
.. all W.Ps.

Petitions under Article 226 of the Constitution of India praying for a writ of Certiorari to call for the entire records of the second respondent in O.A.Nos.310/1788/2014, 310/1789/2014, 310/1790/2014 and 310/1791/2014 and quash the common order passed therein dated 14.7.2016.

For Petitioners : Mr.S.Muthusamy
in all W.Ps.

For Respondent-1 : Mr.Sai Srujan Taj
in all W.Ps. For M/s. Giridhar & Sai

O R D E R

(Made by the Hon'ble Acting Chief Justice & S.S.Sundar,J)

The above writ petitions are directed against the order passed by the Tribunal allowing the Original Applications filed by the first respondent herein.

2. The first respondent in the all the writ petitions, who were appointed as Constable and Assistant Loco Pilot, were medically decategorised and thereafter, absorbed as Technician Grade III and Technician Grade II. It appears that after their medical de-categorisation and absorption of the first respondent, though they were granted pay protection and financial upgradation, their names were not included in the seniority list. Therefore, they filed Original Applications before the Central Administrative Tribunal on the ground that they are entitled to protection of seniority as per Rule 1310 of Indian Railways Establishment Manual. The Tribunal, by the common order impugned in the writ petition, allowed the Original Applications. Hence, the above writ petitions.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the first respondent.

4. On perusal of the order of the Tribunal, we deem fit to extract the findings of the Tribunal in paragraphs 10 and 11,

which read as under:

"11. Of course, no doubt that Rule 1310 of Indian Railways Establishment Manual cited supra clearly envisages that the disabled/medically decategorised staff absorbed in alternative posts should be allowed seniority in the grade of absorption with reference to the length of service rendered on non-fortuitous basis in the equivalent or corresponding grade before being declared medically unfit. But in the instant case, despite several representations to the respondents with regard to fixation of their seniority based on length of service, the respondents by reply dated 22.11.2013 stated that their request is under consideration.

12. On perusal, it is seen that the name of the applicants have not been included in the seniority list in their respective posts pursuant to their medical de-categorisation and subsequent absorption in the post of Artisan cadre. Under such circumstances, I feel it appropriate to give direction to the respondents to include the applicants' name in the seniority list in their respective posts by reckoning the length of service rendered from the date of their initial appointment and grant consequent promotion to the applicants to the next higher posts with effect from the date on which their immediate junior in the said grade has been promoted with all consequential benefits including arrears of pay and allowances flowing therefrom."

5. On reading of the above order, it is apparant that the Tribunal, after extracting Rule 1310 of the Indian Railways Establishment Manual and averring that the representations of the first respondent are pending before the petitioners herein for consideration, has ultimately granted the relief as prayed for by the first respondent in paragraph 14 of its order.

6. However, we are of the view that the order of the Tribunal is contrary to Rule 1310 of the Indian Railways Establishment Manual and that the petitioners should be directed to consider the representation of the first respondent. Accordingly, the petitioners are directed to consider the representation of the first respondent and pass appropriate orders, after giving due opportunity to both the parties and in accordance with the Rules framed therein as to their entitlement in the category of medical de-categorisation not exactly from the seniority of the original cadre, within a period of three months from the date of receipt of copy of this order. Thus, the

order of the Tribunal stands modified accordingly.

7. The writ petitions are disposed of. There shall be no order as to costs. Consequently, WMP Nos.13284 to 13287 of 2017 are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

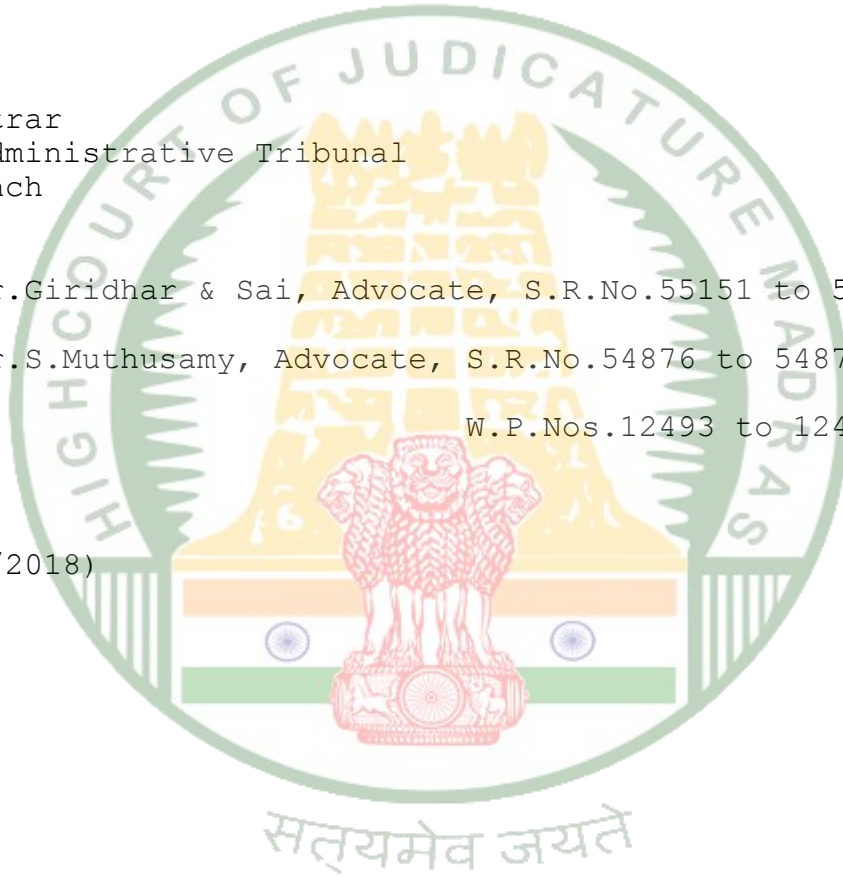
The Registrar
Central Administrative Tribunal
Madras Bench
Chennai.

+4cc to Mr.Giridhar & Sai, Advocate, S.R.No.55151 to 55154

+4cc to Mr.S.Muthusamy, Advocate, S.R.No.54876 to 54879

W.P.Nos.12493 to 12496 of 2017.

GP(CO)
GSP(10/09/2018)



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