



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.03.2018
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) .No.5046 of 2018

A.Nishanth George

... Petitioner

Vs.

1.The Chief Personnel Officer,
Southern Railway,
Chennai-600 003.

2.The Chief Medical Director,
Southern Railway,
Chennai.

3.The Divisional Personnel Manager/Co-ordination
Divisional Office,
Personnel Branch,
Southern Railway,
Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 17.01.2018 vide No.U/P 353/WP 18703/2017 on the file of the 3rd respondent, quash the same and consequently, direct the respondents to provide suitable employment to the petitioner by implementing the order dated 24.03.2017 passed by the Central Administrative Tribunal, Madras Bench.

For Petitioner : Mr.C.Muthusaravanan

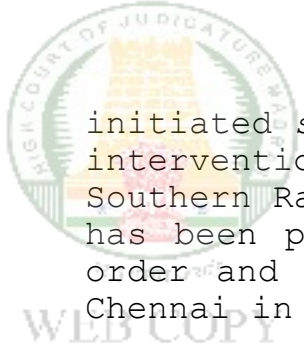
For Respondents : Mr.S.Manohar

O R D E R

[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

Hear Mr.C.Muthusaravanan, learned counsel appearing for the petitioner and Mr.S.Manohar, learned counsel appearing for the respondents.

2.Before we consider the merits of the matter, we at the very out set, would observe that the impugned order passed by the third respondent is a clear case of violation of the orders passed by the Central Administrative Tribunal, in two earlier applications filed by the petitioner for more or less a similar relief. Had the orders been passed by the writ Court or Division Bench, we would have



initiated suo motu contempt against the respondents. However, at the intervention of the learned Standing counsel for the respondent Southern Railway, we have desisted from doing so. The order impugned has been passed by the third respondent in utter disregard to the order and direction issued by the Central Administrative Tribunal, Chennai in O.A.No.310/1126/2016, dated 24.03.2017.

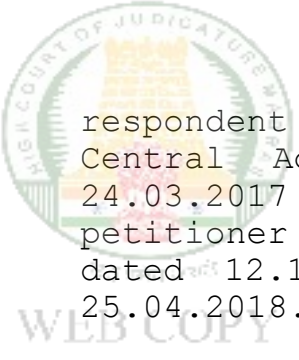
3.The operative portion of the order reads as follows:

"Heard both. Perused the materials placed on record. It is not in dispute that the applicant was considered for selection under the LARGESS Scheme and he attended medical examination. It is also not in dispute that the applicant was declared as unfit in the medical examination for the post of Trackman under the LARSGESS Scheme. On perusal, it is seen that this Tribunal had already recorded in its earlier order in O.A.No.1073/2014 dt. 01.04.2016 that the respondents had agreed that the applicant is medically fit for the post of CEE ONE and below. Also this Tribunal had directed the respondents to consider the applicant for any such post under CEE ONE and below category. Now the respondents are contending that since applicant is not medically fit in B1 category he cannot be considered under the LARSGESS Scheme. It is seen that eventhough the applicant is not medically fit in B1 category he can be considered in the post for which the medical classification is C1 and below. Also this observation was already made in the earlier order passed by this Tribunal in O.A.No.1073/2014. Hence, respondents are directed to consider the applicant in the pose according to his medical fitness (ie., C1 and below) positively. This Court hopes that the applicant will not be driven to this Tribunal again with the same prayer. With these observations, the OA is disposed of."

4.The Railway Administration did not challenge the order passed by the Tribunal, but it is the petitioner who approached the Division Bench and filed W.P.(MD).No.18703 of 2017, to direct the respondents to implement the order and appoint the petitioner in any post in CEE ONE and below, as per the letter, dated 12.12.2013 issued by the third respondent. The Division Bench by order dated 14.11.2017, directed the implementation of the order passed by the Tribunal, though the Division Bench observed that it is not going into the merits of the matter, nevertheless, the order and direction issued by the Central Administrative Tribunal, stood merged with the order passed in W.P.(MD).No.18703 of 2017. Therefore, technically we would have been right to issue notice of contempt. However, considering the career of the petitioner, we have not done so.

<https://hcservices.ecourts.gov.in/hcservices/>

5.In the light of the above discussion, the writ petition stands allowed and the impugned order is set aside and the third



respondent is directed to comply with the order passed by the Central Administrative Tribunal in O.A.No.310/1126/2016, dated 24.03.2017 in its letter and spirit and grant appointment to the petitioner in any post in CEE ONE and below, in terms of the letter, dated 12.12.2013 issued by the third respondent on or before 25.04.2018. No costs.

Sd/
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1.The Chief Personnel Officer,
Southern Railway,
Chennai-600 003.

2.The Chief Medical Director,
Southern Railway,
Chennai.

3.The Divisional Personnel Manager/Co-ordination
Divisional Office,
Personnel Branch,
Southern Railway,
Madurai.

+1cc to Mr.S.Manohar, Advocate, SR.No.56976

+1cc to Mr.C.Muthusaravanan, Advocate, SR.No.57094

W.P. (MD) .No.5046 of 2018
21.03.2018

NS

KK/SV MMS/02.04.2018/SAR-4/3P-6C