

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.33504 of 2016

1 M.Rathinakumar
Res. at No.123 Vishnu Nagar Grand Line
Vadakarai Vadakarai Post,
Redhills Chennai- 600 052. ...PETITIONER

Vs.

1 The Chairman,
Chennai Port Trust Rajaji Salai,
Chennai- 600 001.
2 The Financial Adviser
and Chief Accounts Officer,
Chennai Port Trust,
Rajaji Salai Chennai-600 001 ...RESPONDENTS

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari Mandamus, Calling for the records of the 2nd Respondent in AO (Pension) / PPO No.14874/ 2016/ F dated 16.06.2016 and quash the same and consequently direct the Respondents to forthwith sanction Family Pension under the Physically Disability Category with effect from 23.10.2014 continuously to the petitioner as he is not able to earn for his livelihood.

For Petitioner : Mr.K.Raja
For Respondents : Mr.M.Palanimuth

O R D E R

Writ petitioner's father while he was in service died leaving behind the the petitioner and others as legal heirs. Writ petitioner suffered chronic Hemophilia, due to which he unable to walk, suffered severe pain in both shoulders and elbow. Therefore, he approached the authority to pay Famil Pension under Clause 54 (6) of CCS Rules and 48 (iii) (c) of Chennai Port Trust Pension Regulations, 1987. The respondent rejected the claim of the writ petitioner. Challenging the same, the petitioner has filed the instant writ petition.

2. The learned Standing counsel appearing for the respondent submitted that in the medical report it is stated that the writ petitioner unable to stand or walk without support and a situation debilitating enough to even prohibiting him from earning a livelihood of his own. Further, in the report, it is stated that solution to the problems wherein reconstructive procedure are available under guarded conditions like adequate factor 8 substitute, pre and post operatively in which case he may be able to have pain free locomotion which eventually may even improve his general and physical condition/locomotion subject to willingness and consent by the patient. In the light of the above, the writ petitioner's application under Clause 48 (iii) (c) of Chennai Port Trust Regulations, 1987, will be considered and an appropriate orders will be passed.

3. Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondents and perused the materials available on record.

4. Pending writ petition, this Court made oral observation to constitute a Medical Board and on instruction, the legal Adviser of Chennai Port Trust constituted a Medical Board consisting of Dr.Raja Ravi Varma, Chairman, Dr.P.Pandian, Member and Dr.M.S.Payaprakash, Member. The writ petitioner appeared before the Medical Board and he was re-examined by the Medical Board on 13.7.2018. Based on the re-examination of the petitioner, the Medical Board has submitted a report before this Court. It is relevant to extract summary of the report submitted by the Medical Board:

Summary:

Haemophilia is a blood disorder which prevents clotting of blood which could cause irreversible damages to bones and joints as in this case. In the instant case, however, the symptoms of Arthritis and the related sequelae have been present only for the last 2 years i.e. after the period of his last examination which was 2 years back, wherein he had no locomotor disorder. Obviously, the disease has started progressing and has been rapid enough to end up in severe Arthritis of the knee joints. These are recognised sequelae even as per medical literature. Presently, the disease has crippled the patient and he is unable to stand or walk without support and a situation debilitating enough to even prohibiting him from earning a livelihood of his own.

However, there is solution to his problems wherein reconstructive procedure are available

under guarded conditions like adequate factors
8 substitute, pre and post operatively in which
case he may be able to have pain free
locomotion which eventually may even improve
his general and physical condition / locomotion
subject to willingness and consent by the
patient.

Based on the aforesaid report and Clause 48 (iii) (c) of Chennai Port Trust Regulations, 1987, the writ petitioner claims that he is eligible for Family Pension for his life.

5. Taking into consideration the submissions made by the counsel for the parties, medical report submitted by the Medical Board is accepted. The impugned order passed by the ***second** respondent is quashed. The first respondent **or the competent authority** is directed to consider afresh the representation of the petitioner, dated 21.4.2016 and pass appropriate orders in the light of the report of the Medical Board, dated 13.7.2018 as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of the order.

6. The writ petition is allowed with the above directions. No costs. It is made clear that if necessary, the first respondent shall review the petitioner's health condition as and when required.

s/d-

Assistant Registrar(J)

Dated: 06.01.2020

*** Corrected as per order of this
Court dated 25.02.2020
in W.P.No.33504/2016
sd/- Assistant Registrar(CO)
Dated: 12.03.2020**

True Copy

Sub-Assistant Registrar

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To

1 The Chairman,

Chennai Port Trust Rajaji Salai,
Chennai- 600 001.

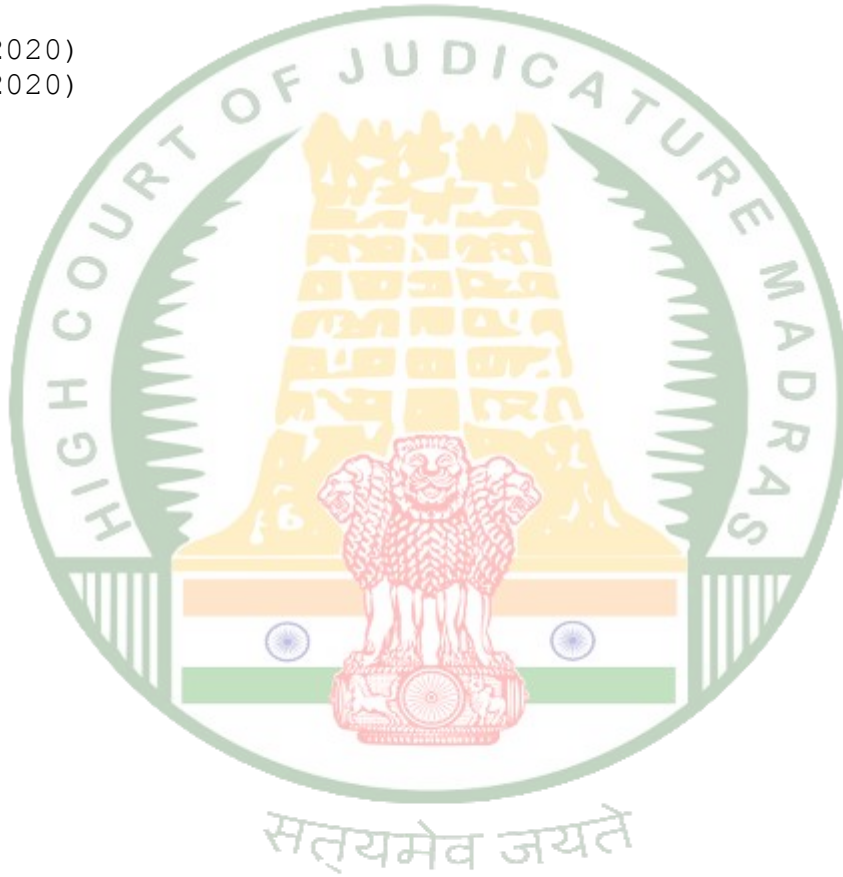
To be substituted to the
order already despatched
on 07.01.2020

2 The Financial Adviser
and Chief Accounts Officer,
Chennai Port Trust, Rajaji Salai
Chennai-600 001

+1 CC to Mr.K.Raja, Advocate sr **16652**
+1 CC to Mr.M.Palanimuth, Advocate sr 103296.

W.P.No.33504 of 2016

SP(06/01/2020)
SP(12/03/2020)



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