

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

WP No.7556 of 2017
and
WMP Nos.8237 & 32042 of 2017

G.Eswar Lal

.. Petitioner

Vs.

1. Union of India rep. by
The Chairman, Railway Board,
Rail Bhavan,
Rail Mantralaya,
New Delhi - 110 001.
2. The Secretary,
Ministry of Personnel / Public Grievance and Pensions,
Department of Personnel and Training,
Loknayak Bhavan, Lodhi Road, New Delhi - 110 001.
3. Under Secretary (E),
Railway Board, Rail Bhavan,
New Delhi - 110 001.
4. Appointment Committee rep by its Secretary,
Department of Personnel and Training,
Lok Nayak Bhavan, Lodhi Road,
New Delhi - 110 003.
5. General Manager,
Southern Railway.
Park Town, Chennai - 600 003.
6. Ajeet Kumar Saxena
7. The Railway Claims Tribunal,
Rep. by its Registrar,
13/15, Mall Road,
New Delhi - 110 054.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Declaration, declaring that the order No.2016/E(O)II/1/18 dated 22.3.2017 issued by the 3rd respondent read with the order No.HPB(o)185/2017, dated 27.03.2017 issued by the 5th Respondent along with the Order No.2016/E(O)II/1/B dt.28.03.2017 issued by the 3rd Respondent, is so far as it granted illegal and unlawful benefits to the 6th Respondent, by relieving on voluntary retirement and appointing him as Technical Member to the Railway Claims Tribunal, Ernakulam Bench, is illegal, arbitrary and unconstitutional.

[Prayer amended as per order of this Court [SMKJ & SPJ] dated 22.04.2019 made in WMP No.11908 of 2019]

For Petitioner : Mr.C.K.Chandrasekhar

For Respondents: Mr.P.T.Ramkumar (for R1 to R5 & R7)
Standing Counsel for Railways
Mr.Mugundan (for R6)

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

Section 7 of the Railways Claims Tribunal Act, 1987 prescribes the term of office of Chairman / Vice Chairman or other member and the same reads thus:

7. Term of Office: The Chairman, Vice-Chairman or other Member shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,-

(a) in the case of the Chairman, the age of sixty-five years; and

(b) in the case of the Vice-Chairman or any other Member, the age of sixty-two years, whichever is earlier.

2. Mr.Mugundan, learned counsel for the 6th respondent submitted that 6th respondent was born on 15.03.1957 and therefore, as on today, he has attained the age of 62 years, which is duly acknowledged by the learned counsel for the contesting parties.

3. Appointment order dated 28.03.2017 reads thus

ORDER

Sub: Appointment to the post of Member (Technical), Railway Claims Tribunal.

The President is pleased to appoint Shri Ajeet Kumar Saxena, CCM/Southern Railway as Member (Technical) Railway Claims Tribunal at Ernakulam Bench against an existing vacancy. His voluntary retirement has been accepted w.e.f.30.03.2017, vide Board's letter No.E(O)I-2017/SR-10/27 dt.27.03.2017.

The tenure of appointment of Shri Ajeet Kumar Saxena will be for a period of five years from the date he assumes charge of the post of Member (Technical), RCT/Ernakulam Bench or the date he attains the age of 62 years or until further orders, whichever is the earliest.

The appointment shall be governed by the provisions of the Railway Claims Tribunal Act, 1987 and Railway Claims Tribunal (Salaries and Allowances and Conditions of Service of Chairman, Vice Chairman and Members) Rules, 1989 as amended from time to time.

The appointment of Shri Ajeet Kumar Saxena is subject to the outcome of investigation of CBI in compliance of Orders dated 24.11.2016 of Hon'ble Madurai Bench of High Court of Madras in WP (MD) No.21214 of 2016 in the matter of Mr.Ramesh Vs. Central Bureau of Investigation (CBI), New Delhi.

Shri Ajeet Kumar Saxena is advised to take up the new assignment on 31.03.2017.

(Manoj Kumar)

Under Secretary/E(O)II/Railway Board.

4. As per order dated 28.03.2017, extracted supra, the tenure of appointment of Shri Ajeet Kumar Saxena, the 6th respondent will be for a period of five years from the date he assumes charge of the post of Member (Technical), RCT/Ernakulam Bench or the date he attains the age of 62 years or until further orders, whichever is the earliest. Appointment is subject to the outcome of investigation of CBI in compliance of Orders dated 24.11.2016 of Hon'ble Madurai Bench of High Court of Madras in WP (MD) No.21214 of 2016 in the matter of Mr.Ramesh Vs. Central Bureau of Investigation (CBI), New Delhi.

5. All the learned counsel for the parties fairly submitted that order dated 24.11.2016 in WP (MD) No.21214 of 2016, has

been set aside and the Review Application (MD) No.23 of 2017, has been allowed and the matter is now being placed before a learned Single Judge of the Madurai Bench of Madras High Court. Submission of all the learned counsel is placed on record.

6. Though inviting the attention of this Court to the expression, "until further orders" used in paragraph No.2 of the order dated 28.03.2017 passed by the Under Secretary/E(O) II/Railway Board, Government of India, Mr.C.K.Chandrasekhar, learned counsel for the petitioner submitted that there could be a possibility of appointing the 6th respondent in the post of Member (Technical), Railway Claims Tribunal, Ernakulam Bench, even after attaining the age of 62 years, Mr.P.T.Ramkumar, learned counsel appearing for the Railways as well as Mr.Mugundan, learned counsel for 6th respondent submitted that in the light of Section 7 of Railway Claims Tribunal Act, 1987, there is absolutely no possibility of issuing a fresh appointment order, to Mr.Ajeet Kumar Saxena, the 6th respondent herein, after attaining the age of 62 years. Submission is placed on record.

7. Therefore, delving into the factual and legal aspects raised in this writ petition by all the parties are purely of academic in nature. Both the learned counsel for the Railways and 6th respondent submitted that instant writ petition can be dismissed on the grounds that it has become infructuous. Submission is placed on record.

8. In the light of the submission of the learned counsel for Railways and the 6th respondent, Mr.C.K.Chandrasekhar, learned counsel for the petitioner has no serious objection to the abovesaid contention. On the contra, he also acknowledges that the writ petition be dismissed as infructuous. Submission of the learned counsel for the petitioner is also recorded.

9. Therefore, placing on record the submission of all the learned counsel and on consensus, writ petition is dismissed as infructuous. No Costs. Consequently, the connected writ miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Union of India,
Railway Board,
Rail Bhavan,
Rail Mantralaya,
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6. The Registrar,
Railway Claims Tribunal,
13/15, Mall Road,
New Delhi - 110 054.

+1cc to Mr.Menon Karthik, Advocate, S.R.No.39005
+1cc to Mr.C.K.Chandrasekhar, Advocate, S.R.No.38562
+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.38376

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CS/17/07/2019

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