

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JANUARY, 2021

PRESENT

THE HON'BLE MR. JUSTICE B. VEERAPPA

AND

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO.32474/2016 (S-CAT)

BETWEEN:

B. SURESH
S/O HIRALAL
AGED ABOUT 61 YEARS
SR. DIVISIONAL MEDICAL OFFICER
DIVISIONAL RAILWAY HOSPITAL
SOUTH CENTRAL RAILWAY
VIJAYAWADA.

...PETITIONER

(BY SRI SHARATH KUMAR, ADVOCATE FOR
SRI M. VINAYA KEERTHY, ADVOCATE)

AND:

1. SOUTH WESTERN RAILWAY
HQRS OFFICE, HUBBALLI-580 023
REPRESENTED BY ITS GENERAL MANAGER.
2. DIVISIONAL RAILWAY MANAGER
HUBLI DIVISION, SOUTH WESTERN RAILWAY
DIVISIONAL OFFICES COMPLEX
HUBBALLI-580 023.

...RESPONDENTS

(BY SRI ABHINAYA Y.T., CGC)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 21.12.2015 PASSED BY THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, BENGALURU IN ORIGINAL APPLICATION NO.1594/2014 (ANNEXURE-H) AND ETC.

THIS WRIT PETITION COMING ON FOR HEARING ON INTERLOCUTORY APPLICATION THIS DAY, *B. VEERAPPA, J.*, MADE THE FOLLOWING:

ORDER

By the consent of the learned counsel for the parties, we have taken the matter for final disposal.

2. The present petitioner who is the applicant before the Central Administrative Tribunal, Bengaluru Bench, Bengaluru (for short 'CAT') filed Original Application No.1594/2014 to quash the impugned order dated 08.04.2003 issued by the second respondent as per Annexure-A directing to consider the representation dated 03.07.2006 as per Annexure-C for refund of the recovery amount of Rs.2,70,198/-. The CAT dismissed the application mainly on

the ground of delay and latches that the applicant has not assigned any sufficient reasons to condone the delay. Hence, the present writ petition is filed.

3. We have heard the learned counsel for the parties to the lis.

4. Sri Sharath Kumar, learned counsel for the petitioner contended that the impugned order passed by the CAT mainly on the ground of delay is erroneous and contrary to material on record and liable to be quashed. He further contended that the respondent is well aware of the fact that the petitioner has not travelled beyond the stretch between Hotgi & Guntakal even though inadvertently he had availed pass for a longer route. Further even though Pass Rules provide ample opportunity to the General Manager to condone the irregularities in the issuance of passes through longer route, the respondents, without conducting any proper inquiry or giving any opportunity to the petitioner to putforth his case

proceeded to pass the impugned order and same cannot be sustained. He would further contend that such material circumstances has not been considered by the CAT and rejected the original application filed by the petitioner mainly on the ground of delay. Therefore, he sought to allow the writ petition by quashing the order dated 21.12.2015 passed by the CAT as well as the order passed by the respondent as per Annexure-A.

5. Per contra, Sri Abhinaya Y.T., learned counsel for the respondents on instructions submits that though the recovery order was passed for irregularities in the issuance of passes long back on 08.04.2003, the petitioner approached the CAT in the year 2014 after the lapse of more than 12 years and absolutely no sufficient reasons assigned to condone the delay. He would further contended that the petitioner has misused the passes and thereby the Authorities issued endorsement by an impugned order to recover the excess amount and primarily the petitioner has failed to bring out the

issue to the notice of the administration with supporting documents. Therefore, absolutely there is no material to interfere with the order passed by the CAT and he sought to dismiss the writ petition.

6. Having heard the learned counsel for the parties, it is not in dispute that the present petitioner who is appointed as Asst. Divisional Medical Officer, Railways on 15.03.1989 and thereafter promoted in the year 1994 as Divisional Medical Officer and in the year 1998 as Sr. Divisional Medical Officer. While working as Sr. Divisional Medical Officer, the petitioner was posted to Hotgi for the purpose of traveling to his native place from the place of his posting, the petitioner availed privilege passes as per his entitlement every year. While applying for the said passes, the petitioner requested for the route from Kanyakumari to Jammu Tawi-Covering the route from Guntakal to Hotgi. According to the petitioner though he availed such passes he utilized the passes only for his travel and his family's travel from Hotgi to Guntakal and he had not

traveled beyond the said stretch on any of the passes issued to him.

7. The authorities considering the inspection and irregularities committed by the petitioner by an order dated 08.04.2003 have observed that Dr. B. Suresh has availed seventeen First Class 'A' passes ex.Kanniyakumari to Jammu Tawi and Back Via MAQ, MAS, SBC, GTL & CSTM in favour of self, Wife, 2 Daughters aged 14 and 10 years and a Son of 13 years. The route eligible ex. CAPE to JAT is Via MDU, SA, SBC, GTL, KRNT, SC, KZP, WARDHA, IT, JHN, AGC and NDLS, instead the said doctor has availed passes via above mentioned route through longer route in respect of all the seventeen passes availed by him, to & fro. The approximate value of the same works out to Rs.2,70,198 and therefore the Authority directed the Chief Medical Superintendent Hubli to look into the matter and arrange to recover the said amount and furnish the details of recovery particulars. The said

endorsement was the subject matter of the original application No. 1594/2014 before the CAT.

8. A careful perusal of the original application filed, in the entire application there is no explanation offered for the delay of more than 12 years and in the absence of any explanation, the CAT has rightly dismissed the application on the ground of inordinate delay of 12 years. It is also not in dispute that the order came to be passed as long back as on 08.04.2003 and as such there was no interim order before the CAT and the CAT dismissed the original application on 21.12.2015. We are in 2021 and even before this Court also there is no interim order. Since 7 years there was no interim order before the CAT or before this Court. The petitioner has not disputed the fact of availing pass as held by the authorities. Admittedly, the authorities have already recovered the entire amount from the petitioner as one of the prayer of the petitioner to consider his representation to refund the said amount.

9. The Order passed by the CAT in dismissing the application on the ground of inordinate delay is just and proper in view of the provisions of Section 21 of the CAT Act.

10. In view of the above, we are of the opinion that the petitioner has not made out a ground to interfere with the impugned order passed by the CAT and accordingly, the writ petition is dismissed being devoid of merits.

Sd/-
JUDGE

Sd/-
JUDGE

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