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W.P.No.19935 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.19935 of 2009

K.Jayachandran

... Petitioner

Versus

1.The Commandant,
Central Industrial Security Force,
CISF Unit, PPT, Paradeep,
Jagatsinghpur, Orissa.

2.The Deputy Inspector General,
Central Industrial Security Force,
Eastern Zone Head Quarters,
Patna.

3.The Deputy Inspector General,
Central Industrial Security Force,
Southern Zone Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai – 90.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to call for the records relating to the order passed by the first respondent in his Order No.V-14013/Legal Notice/PPT/Disc/07/90, dated 02.01.2008 quash the same and to direct the respondents to disburse the recurring medical pension out of RMSF New Scheme monthly from 19.03.2002 to 18.03.2022.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.Dr.D.Simon, (CGSC)



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ORDER

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2.The case of the petitioner is that he was serving the respondent organisation and while so he was boarded out on medical grounds with effect from 19.03.2002. According to the petitioner, he is eligible for recurring monthly pension as per the scheme which was existent as on the date in which he was boarded out, that is, “*Risk cum Saving Fund Scheme*” of the year 1977. However, no benefits were granted to him and when he questioned the same by Writ Petition in W.P.No.18434 of 2003, it was contended on behalf of the respondent by virtue of introduction of new scheme viz., *Revised CISF, Central Welfare Risk Premia-cum- Medical Assistance-cum-Saving Scheme 2002*, the earlier scheme was no longer in existence and got merged with the new scheme and recording the said submissions, the Writ Petition was disposed of. However, when he approached the respondent for grant of monthly pension under the new scheme the same is rejected by the impugned order dated 02.01.2008, hence



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the Writ Petition.

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3.The respondents have filed a counter and it is the case of the respondents that the petitioner was boarded out on medical grounds on 19.03.2002. However, when he was denied the pension as per the old scheme, he questioned the same by filing an earlier Writ petition No.18434 of 2003, specifically challenging the order dated 02.04.2003 whereby he was denied the monthly pension of Rs.600 per month. The Division Bench of this Court, after considering the pleadings of the parties accepted the contention of the respondents that in view of the scheme itself being non-existence due to its merger with the new scheme, the petitioner was rightly denied the benefits. Under the new scheme, the petitioner was not entitled to monthly pension but for a lump sum amount of Rs.22262/-. However, there was balance outstanding to be recovered from the petitioner to the tune of Rs.43320/- and therefore, the said lump sum was adjusted towards the same recoverable from the petitioner and the balance was written off. That is why the petitioner was not paid any benefit under the new scheme and the impugned order is passed on this basis.



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4. Heard Mr.A.S.Mujibur Rahman, Learned Counsel for the petitioner and Mr.Dr.D.Simon, Learned Central Government Standing Counsel appearing for the respondents.

5. The learned counsel for appearing for the petitioner pointing out the earlier order of this Court and submit that the respondents promised that the petitioner will be granted benefit as per the new scheme the writ petition was dismissed. However, in the reply dated 29/05/2007 issued to the legal notice they denied the benefit under the new scheme and as such the respondents are blowing hot and cold. When the petitioner relied upon the earlier scheme, they submitted that they will be entitled to the benefit of the new scheme. And, when the petitioner again approached the respondents, they have not granted any benefit whatsoever and therefore prayed that impugned order should be set aside and the petitioner should be granted the benefit of monthly pension as per the original scheme, which was in force as on date when he was boarded out from the service.

6. Per contra, the Learned Central Government Standing Counsel appearing for the respondents would submit that it is not a case whereby the



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respondents are changing their stand. They have already denied the benefit

under the old scheme by passing the order dated 02.04.2003 and the same

has been put to challenge by the petitioner in W.P.No.18434 of 2003 and

the said Writ Petition was dismissed. Therefore, once the writ petition was

dismissed there is no chance to claim the benefit under old scheme once

again. As far as the new scheme is concerned, the respondents are not

denying the benefit, but, whatever, he is entitled under the scheme alone can

be granted. By relying upon paragraph No.4 of the counter affidavit, the

learned counsel would submit that under the new scheme there is no

payment of monthly medical pension, which is applicable to the petitioner.

However, only a lump sum amount of Rs.22,262/- remains to be payable

and that was not paid, but, it was adjusted, towards the outstanding due

amount Rs.43,320/-, which was recoverable from the petitioner. Therefore,

he would submit that there is no merits in the claim of the petitioner.

7.I have considered the rival submissions made on behalf of both

sides and perused the materials on record in this case. I am unable to agree

with the learned counsel for the petitioner that he would be still entitled to

monthly pension as per the earlier scheme, which was prevalent as on date

of his retirement. The said relief is claimed in the earlier Writ Petition in



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W.P.No.18434 of 2003, but, however, the same has been denied to him by the Division Bench of this Court and the said Judgement of the Division Bench having become final and it is not open for the petitioner to re-agitate the same cause in the present Writ Petition.

8.The respondents have stated that as per the new scheme, it is only a sum of Rs.22,262/- which is due to the petitioner, and the same was already adjusted. Factually, no reply affidavit whatsoever has been filed by the petitioner, in respect of the said averments and the learned counsel is also not in a position to point out that he is entitled to any other benefit under the new scheme. On the other hand, it is his contention that the original scheme which was in force on the date of retirement, is only applicable. The said contention has already been considered in the earlier Writ Petition, and I am not in a position to accept the submission. Therefore, the Writ Petition fails and the same is dismissed. However, there is no order as to costs.

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Index : yes/no
Speaking/Non-speaking order

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D.BHARATHA CHAKRAVARTHY, J.

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