



WP No.1908 of 2003

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

**WP No.1908 of 2003**

1.The Union of India,  
Represented by the Chairman,  
Railway Board,  
New Delhi.

2.The General Manager,  
Southern Railway,  
Park Town, Chennai-600 003.

... Petitioners

vs

1.The Registrar,  
Central Administrative Tribunal,  
Chennai Bench,  
Chennai- 600 104.

2.Dr.A.Srinivasan

3.The Union of India  
Represented by the Secretary to Government  
of India,

Ministry of Pension,  
Department of Pensions and Pension Welfare,  
New Delhi.



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4.The Manager,  
Syndicate Bank,  
Kodambakkam Branch,  
Chennai-600 024.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the entire records of the first respondent in OA No.666 of 2002, the order dated 30.09.2002 and quash the same.

For the Petitioners :Mr.M.Viay Anand

For the Respondents :No appearance-respondents 2 to 4  
first respondent-Tribunal

### **ORDER**

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

Though notice has been served to respondents 2 to 4 and their names have been printed in the cause list, none appeared.

2. The petitioner has filed the writ petition challenging the order passed by the Central Administrative Tribunal in OA No.666 of 2002, dated 30.09.2002.



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### **3. Brief facts of the case:**

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3.1. The second respondent was working in the Medical Department in the Ministry of Railways and he retired from service on 30.11.1982 on attaining the age of superannuation and he was given pension. After the recommendations of the Fifth Pay Commission were implemented, the second respondent's pension was revised at Rs.5839/- with other reliefs from 01.01.1996. While fixing the pension, the petitioner authority at that time have taken into account the non-practicing allowance. Pursuant to the order dated 29.10.1999 of the Government of India, the second respondent's pension was revised and reduced to Rs.5265/- with other reliefs. According to the second respondent his earlier fixation is correct and he is entitled to 25% of basic pay as non-practicing allowance. Challenging the same, the second respondent has filed an original application in OA No.666 of 2002 before the Central Administrative Tribunal seeking for the following reliefs:

(i) To quash the clarifactory notification of the Government of India, Department of Personal Number 45/3/99 P & PW/(A)/III dated 29.10.1999 as illegal.

(ii) To direct the Syndicate Bank, T.Nagar not to recover any sum from



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the reduced pension and if recovered to pay back to the second respondent in view of the interim orders of the High Court of Madras.

(iii) To direct the respondents 2 and 3 to revise the second respondent's pension as per the orders dated 22.04.1998 and to pay the difference immediately.

iv) To direct the respondents 2 and 3 to recalculate the pensionary benefits by calculating the NPA at 25% of the basic pay as recommended by the 5th Central Pay Commission and accepted by the Government of India and implemented in the case of medical officers belonging to the Defence Services etc.

3.2. The Tribunal has considered the aforesaid prayer as sought by the second respondent and allowed the said OA by order dated 30.09.2002 in the light of the decision rendered by the Division Bench of the Delhi High Court dated 18.05.2002 and granted relief to the second respondent. Assailing the said order, the petitioner authority has filed the present writ petition.



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4. Learned counsel for the petitioner Department submitted that the office memorandum of the third respondent dated 17.12.1998 and 29.10.1999 and the re-fixation of pension in respect of central government medical officers was challenged before the principal bench of the Tribunal at New Delhi in OA No.621 of 2000 and batch and the Principal Bench, by order dated 05.12.2000 had held that the memorandum dated 29.10.1999 was perfectly valid and the consequent re-fixation of pension was also justified and thus the claim of the medical officers similarly placed as the second respondent were negatived. The said order of the principal bench, New Delhi was challenged by the applicants therein before the Division Bench of the Delhi High Court, by filing WP No.7322 of 2001 and batch. The said writ petitions were allowed by the Division Bench of the Delhi High Court by order dated 18.05.2002 and consequently the original applications filed before the Principal Bench, New Delhi were allowed. Challenging the said order of the Delhi High Court, the administration has filed Special Leave Petition before the Hon'ble Supreme Court of India and the same is pending.

5. Even though learned counsel for the petitioner Authority has stated



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that as against the order dated 18.05.2002 passed in the writ petition in WP No.7322 of 2001 and batch, the petitioner Authority has filed an appeal before Hon'ble Supreme Court, however, they have not placed any relevant material before this Court to establish that the said appeal is pending before the Hon'ble Supreme Court despite opportunity was granted to the petitioner Authority.

6. In view of the above, we are of the view that the order of the Delhi High Court in WP No.7322 of 2001 dated 18.05.2002 has become final. Therefore, we are not inclined to interfere with the order of the Tribunal as there is no merits in the writ petition.

7. In fine, the writ petition stands dismissed. There will be no order as to costs. Consequently, WMP No.2344 of 2003 is closed.

[D.K.K., J.] [P.D.B., J.]  
29.11.2023

Index : Yes/No  
Neutral Citation : Yes/No  
mrn

***Note: Issue order copy by 23.02.2024***



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To  
The Secretary to Government of India,  
The Union of India,  
Ministry of Pension,  
Department of Pensions and Pension Welfare,  
New Delhi.



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