



W.P.No.9791 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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1. A.Masilamani (Deceased)
2. Eruthaya Rani
W/o late Masilamani
3. Rajakumari
D/o late Masilamani
4. Muthukumar
S/o late Masilamani
5. Anna Prakash
S/o late Masilamani
(P2 to P5 substituted as LRs
of the deceased sole petitioner
vide order of Court dated 4.8.2023
in WMP.21073/2023 in WP.9791/2019) .. Petitioners

v.

The Union of India represented its

1. The General Manager
Southern Railway
Chennai 600 003



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2. The Divisional Railway Manager
O/o The Divisional Railway Manager
Southern Railway
Madurai

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the Central Administrative Tribunal made in O.A.No.310/1562 of 2018 dated 26.11.2018 and quash the same and direct the 2nd respondent to sanction the salary for the period of the petitioner's medical treatment from 03.05.2007 to 02.07.2008 and sanction the gratuity and other monetary benefits for the period of 6 years to the petitioner.

For Petitioners :: Mrs.Thenmozhi Shivaperumal

For Respondents :: Mr.M.Vijay Anand

ORDER

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

The first petitioner filed the O.A.No.1562 of 2018 before the Central Administrative Tribunal, Chennai Bench seeking to set aside the order dated 08.10.2018 passed by the second respondent with a consequential direction to the second respondent to sanction the salary for the period of his medical treatment from 03.05.2007 to 02.07.2008 and sanction the gratuity and other



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monetary benefits for a period of six years to him. The said O.A., was filed raising two grounds. The first contention was that when the petitioner was referred to Perambur Railway Hospital on 03.05.2007 to ascertain his fitness, after diagnosis, the Senior Medical Officer opined that the first petitioner had defective colour vision in both eyes and was taken under the sick list. Subsequently, on the Special Medical Board declaring him fit in A2 category, he joined duty on 03.07.2008 and retired from service on 31.05.2016. Therefore, placing reliance on para 524(ii) of IRMM, 2000, he made a representation on 11.1.2018 to the respondents to treat the period of his medical treatment from 03.05.2007 to 02.07.2008 as duty period and sanction him the salary. The second contention was that when the first petitioner had rendered service in the respondent Railways for a period of 40 years, the respondents had sanctioned the gratuity and other monetary benefits by counting only the qualifying service of 33 years, leaving the balance period of 6 years. Therefore, he is entitled to gratuity for the said balance period of 6 years also. But the Central Administrative Tribunal, by order dated 26.11.2018, has wrongly rejected his claim holding that the petitioner/applicant has not offered any credible explanation for not



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pursuing the case for over nine years and the respondents also cannot be faulted for rejecting his claim on the ground that the claim is time barred, as the documents relating to the petitioner's PME attendance were not available at the Railway Hospital. Aggrieved thereby, the present writ petition has been filed. Since the sole petitioner died during the pendency of the writ petition, his legal representatives have been brought on record.

2. We have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

3. So far as the first contention raised by the petitioners for treating the period of medical treatment by the first petitioner from 03.05.2007 to 02.07.2008 as duty period and to sanction the salary for the said period, is concerned, although the first petitioner was diagnosed with the defective colour vision by the Senior Medical Officer of the Railway Hospital on 03.05.2007 itself and was taken under the sick list in the interest of the employee, he has been declared fit by the Special Medical Board in A2



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category and he joined duty on 03.07.2008 and also retired from service on reaching the age of superannuation on 31.05.2016. But, strangely, the first petitioner has chosen to make the representation only on 11.01.2018 to the respondents for the incident that occurred during 2007-2008 after keeping quiet for a period of nearly 11 years. Therefore, as rightly held by the Central Administrative Tribunal, the respondents cannot be faulted for rejecting the said stale claim, as he has not given any credible reason or explanation for his failure to pursue the representation alleged to be acknowledged on 18.08.2008. Moreover, a reading of para 524(ii) of the IRMM, 2000 shows that the said rule relates to the time taken by the examining medical authority to come to a decision in the matter of treatment of railway employees sent for periodical medical reexamination. In our considered opinion, the said rule cannot be taken advantage of by the petitioner to claim that the period of medical treatment from 03.05.2007 to 02.07.2008 should be treated as duty period, as he was diagnosed with the defective colour vision by the Senior Medical Officer on 03.05.2007 itself and was taken under the sick list. Hence, we find no merits in the first contention of the petitioners.



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4. So far as the second contention as to the non-payment of gratuity for the balance period of 6 years is concerned, in terms of Rule 70 of the Railway (Pension) Rules, 1993, a railway servant on his retirement be granted the retirement gratuity equal to one fourth of his emoluments for each completed six monthly period of qualifying service subject to a maximum of sixteen and one-half times the emoluments i.e., maximum qualifying service of 33 years only. According to the respondents, the maximum gratuity payable is 16½ times of the last drawn pay plus dearness allowance applicable at the time of retirement and thus, a sum of Rs.7,19,400/- was ordered to be paid to the first petitioner by taking the maximum qualifying service of 33 years as on 31.05.2016 and the same has also been received by the first petitioner in the year 2016. Therefore, the Central Administrative Tribunal has rightly held that the respondents are justified in rejecting the claim of the first petitioner for payment of gratuity for the balance period. Hence, we find no merits in the second contention also.

5. For the aforementioned reasons, finding no grounds whatsoever to



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interfere with the order passed by the Central Administrative Tribunal,

Chennai Bench, the writ petition stands dismissed. No order as to costs.

(D.K.K.,J.) (P.B.B,J.)
25.08.2023

Index : yes/no
Neutral citation : yes/no

SS

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