



W.P. No.22768 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 13.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P. No.22768 of 2019
and WMP.No.22316 of 2019

C.Sundaramoorthy

.. Petitioner

Versus

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai 600 104.
2. Union of India,
Rep. by the Divisional Rly. Enquiry,
Southern Railways, Salem 636 005.
3. The Senior Divisional Mechanical Engineer,
Salem Division, Southern Railways,
Salem 636 005.
4. The Divisional Personnel Officer,
Salem Division - Southern Railways,
Salem 636 005.
5. The Assistant Mechanical Engineer,
Southern Railways, Erode.

.. Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent/Tribunal relating to the order dated 07.06.2016 passed in OA.No.428 of 2013, confirming the order of the fourth respondent in Letter No.SA/P.483/Mech.Bills dated 15.02.2013 to quash the same and grant the relief as prayed for in the Original Application.

For petitioner : Ms.P.Apoorva
for M/s.M.Ravi

For respondents
for R1 : Tribunal
for RR2 to 5 : Mr.M.Vijay Anand, Standing Counsel

ORDER

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

This petition has been filed to quash the order passed by the Tribunal dated 07.06.2016 in OA.No.428 of 2013, confirming the order of the fourth respondent in Letter No.SA/P.483/Mech.Bills dated 15.02.2013.

2. It is the case of the petitioner that while he was working as a Senior Technician in Southern Railway, he met with an accident on 14.03.2012



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within 100 metres from his work spot while proceeding to his house for lunch. Immediately, he was hospitalised and treatment was given to him till 30.04.2012. The petitioner gave various representations to the respondents to treat the period of 49 days i.e. from 14.03.2012 to 01.05.2012 as Injury on Duty (IOD) sick and to grant him all the benefits eligible under IOD sick. However, the third respondent, vide order dated 15.02.2013 rejected the petitioner's claim. Aggrieved by the same, he filed OA seeking to quash the order dated 15.02.2013 and declare that the petitioner will be entitled to IOD Leave benefits for the said period and further seeking compensation for the minor deformity sustained in the accident. The Tribunal without considering the case of the petitioner, dismissed the said OA on the ground that the petitioner is unable to substantiate his claim of having injured in the course of employment by producing evidence. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submitted that there were only 15 to 20 employees actually working in the sick line, out of which, only 3 or 4 persons will go home to have lunch. Since the petitioner was the



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last person to go home, none of his colleagues followed him when he fell down while negotiating a slope near the Good-shed entry gate. Therefore, none of the staff had witnessed him. Therefore, IOD cannot be denied on the ground that no C&W staff had witnessed the accident.

4. The learned counsel for the petitioner further submitted that the accident had occurred while the petitioner had been proceeding to his house nearby from the work spot for lunch and as per settled law, it has to be considered as "arising out" and "in the course of employment" and hence the petitioner is eligible for IOD benefits for the period of his treatment as per the Workman's Compensation Act and Railway Establishment Rules and Labour Laws, 2012. In support of his contentions, he relied upon the judgment in the case of *Shree Kirshna Rice and Flour Mills vs. Challapalli Chittemma*, reported in 1961 (II) LLJ 260.

5. In reply, the learned Standing counsel for the respondents submitted that the exact duty hours of the petitioner was from 07.30 to 12.00 hours and 13.00 to 16.30 hours and one hour for lunch break between



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12.00 and 13.00 hours. As alleged by the petitioner, if the accident had happened at Goods Shed entry gate at 12.10 hours, it would have been witnessed by Railway Staff, because at that time, many of the Railway Staff pass through that gate, but no one had witnessed the alleged accident. Therefore, the statement of the petitioner cannot be believed.

6. The learned counsel for the respondents further submitted that the petitioner left the Department premises at 12.00 hours and met with the accident outside the respondents' premises. Therefore, it is clear that the petitioner met with the the accident while he was not on duty. Thus, the Tribunal rightly dismissed the OA. The order of the Tribunal is well considered and reasonable, which needs no interference by this Court.

7. On hearing both sides, this Court framed the following questions:

- i) Whether the accident had occurred during the course of employment? and
- ii) Whether the petitioner is eligible for IOD?



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8. On perusal of records, it is seen that on 14.03.2012, the petitioner attended the office at 07.30 am and left for lunch at 12.00 hours and met with accident. It is the contention of the respondents that since the petitioner met with the accident in lunch hours at 12.10 p.m. and outside the premises of the respondent, the same may be treated as he was not on duty period. However, the said decision of ***Shree Kirshna Rice and Flour Mills vs. Challapalli Chittemma*** held that even though the petitioner met with the accident during the lunch hours between 12.00 to 13.00 hours, the same has to be considered as accident on duty hours. The relevant portion of the said judgment, reads as follows:

"11.....the expression "employment" is wider than the actual work or duty which the workman has to do. It is enough, if at the time of the accident, the workman was in actual employment although he may not be actually returning out of the work. Even when a workman is resting or having food, or taking his tea or coffee or proceeding from the place of employment to his residence and an accident occurs, the accident is regarded as arising out of and in the course of the employment."



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9. In the said decision, it is clearly held that when a workman is resting or having food, or having his tea or coffee or proceeding from the place of employment to his residence and an accident occurs, the accident is regarded as arising out of and in the course of the employment. Therefore, it is clear that though the accident had occurred during lunch hours and outside of the respondents' premises, it has to be taken that the accident had occurred only during the course of employment.

10. The second point to be considered is as to whether the petitioner is eligible for IOD. On a perusal of records, it is clear that the Tribunal, without considering the materials placed by the petitioner, passed a non-speaking order. Therefore, this Court is of the view that the matter may be remanded to the respondent Department to find out the eligibility of IOD after verification of records and additional particulars to be produced by the petitioner, if any.

11. In view of the above discussion, this Court set asides the order passed by the Tribunal and remitted the matter back to the respondent Department to consider afresh and pass orders in the light of the



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observations made above. Further, we are inclined to direct the petitioner to submit relevant particulars, if any within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the respondent Department shall consider the matter afresh and pass appropriate orders as early as possible within a period of 12 weeks from the date of receipt of a copy of this order regarding eligibility of IOD to the petitioner. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J] [P.D.B., J]
13.12.2023

Speaking order: Yes/No
Index : Yes/No
pvs



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