



WEB COPY



W.P. No.26570 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.P. No.26570 of 2021
and WMP.No.28024 of 2021

1. The General Manager,
Integral Coach Factory,
Chennai.
2. The Principal Chief Personnel Officer,
Integral Coach Factory,
Chennai.
3. The Chief Works Engineer (Shell),
Integral Coach Factory,
Chennai.

.. Petitioners

Versus

1. Kavati Prasannakumari
2. Kavati Ajayakumar
3. The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records in



W.P. No.26570 of 2021

OA.No.310/00745/2019 on the file of Hon'ble Central Administrative Tribunal, Madras Bench and quash the order dated 24.06.2021.

For petitioners : Mr.P.T.Ramkumar

For respondents
for RR1 & 2 : Mr.Dr.PS.Vijayakumar
for R3 : Tribunal

ORDER

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

This Writ Petition has been filed challenging the order of the Central Administrative Tribunal, Madras Bench in OA.No.310/00745/2019 dated 24.06.2021.

2. The brief facts that are necessary for disposal of the case are as follows:

i) One Jayarao, who is the husband of first respondent, while working as Chief Office Superintendent/Mechanical Department remained on unauthorised absence from duty.



W.P. No.26570 of 2021

WEB COPY

Therefore, a Charge memo was issued and after completion of Departmental inquiry, punishment of removal from service was imposed w.e.f. 17.01.2018. Subsequently, he filed an appeal before the Appellate Authority. Pending appeal, he died on 16.05.2018. However, the said appeal was disposed of on 25.07.2019 modifying the penalty of "removal from service" to that of "compulsory retirement" with full benefits.

ii) On 16.08.2018, the first respondent, who is the wife of the deceased, gave a representation stating that since her husband expired during pendency of disciplinary proceedings, the case should be dropped and extended with all settlement benefits by treating the case as death while in service, which was rejected by the petitioners. Challenging the same, first respondent filed an Original Application in OA.No.310/00080/2019 before the Central Administrative Tribunal, Madras Bench and the Tribunal directed the petitioners herein to consider the representation and pass a reasoned order. The first appellant



W.P. No.26570 of 2021

WEB COPY

considered the representation of the first respondent and by order dated 20.04.2019 it was informed that the representation could not be considered. Challenging the same, the respondents 1 and 2 filed an Original Application in OA.No.310/00745/2019, before the Central Administrative Tribunal, Madras Bench. The Tribunal by order dated 24.06.2021 directed the petitioners herein to release the retirement benefits as well as family pension treating the disciplinary proceedings as abated and further directed to consider and dispose of the application for compassionate appointment within one month. Aggrieved by the order dated 24.06.2021, the present Writ Petition has been filed by the Railway Administration.

3. The learned counsel for the petitioners submitted that the compassionate appointment can be considered for the wards of the employees, who died while they are in service. Since at the time of the death of the deceased Jayarao he was imposed with the penalty of removal from



W.P. No.26570 of 2021

service, the question of granting compassionate appointment to the second respondent will not arise.

4. In response, the learned counsel for the respondents 1 and 2 submitted that if the charged employee expired during the pendency of the disciplinary proceedings, the charges stand abated and it should be closed immediately. Since the appeal is also a continuous process of disciplinary proceedings, it ought to have been closed at the stage of the death of the deceased. Hence, the appellant ought to have released the terminal benefits to the first respondent and compassionate appointment to the second respondent on humanitarian grounds.

5. Heard both sides and perused the materials available on record.

6. The respondents 1 and 2 are the wife and son of the deceased Jayarao. The said Jayarao while working as Chief Office Superintendent remained on unauthorised absence and hence the Disciplinary Authority imposed a punishment of removal from service. Pending disciplinary proceedings, the said Jayarao died on 16.05.2018. The Tribunal by order



W.P. No.26570 of 2021

dated 24.06.2021, granted retiral benefits as well as family pension treating the disciplinary proceedings abated. The operative portion of the said order reads as follows:

"In view of the above, OA succeeds and the impugned orders dated 17.01.2018, 25.07.2018, 08.12.2018 and 20.04.2019 are hereby quashed and set aside. It is declared that the appellant is entitled to the entire retiral benefits as also the family pension. The respondents are directed to consider to release the retiral benefits as well as family pension treating the disciplinary proceedings abated and no punishment was ever awarded to the deceased employee. The said exercise should be completed within a period of 3 months from the date of receipt of this order. The applicant shall not, however, be entitled to get any interest on the delayed payment of retiral dues and family pension, if it is made within the stipulated period of three months otherwise, the applicant shall also get simple interest @ 8% per annum from the date of order till the actual payment is made. Respondents are also directed to consider and dispose of the application for compassionate appointment as per the existing rules and guidelines, if the same is filed by the applicants within one month from the date of receipt of a copy of this order."



W.P. No.26570 of 2021

WEB COPY

7. It is seen that the Tribunal by following the judgments of the Supreme Court has categorically found that the appeal is continuation of the proceedings and consequent to the death of the deceased, whole disciplinary proceedings shall stand abated and therefore, no punishment shall be awarded against late Jayarao. It is a settled law that the appeal is continuation of the proceedings and thus, the Tribunal has rightly abated the punishment against late Jayarao. Therefore, the respondents 1 and 2 are entitled to the entire retiral benefits and also the family pension.

8. With regard to compassionate appointment, on a perusal of the impugned order, it is seen that the Tribunal has only given a direction to the appellants herein to consider and dispose of the application for compassionate appointment as per the existing rules and guidelines. Since no positive direction has been given by the Tribunal, no prejudice would be caused to the Department if the second respondent's application is considered as per Rules.



W.P. No.26570 of 2021

9. In view of the above, this Court is of the view that no intervention is needed in the order passed by the Tribunal. Accordingly, this Writ Petition is dismissed. As per the order of this Court, retirement benefits have not been extended to the respondents 1 and 2 till date. Therefore, the petitioners are directed to settle the retirement benefits within a period of twelve weeks from the date receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J] [P.B.B., J.]
27.09.2023

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

To
The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.



WEB COPY



W.P. No.26570 of 2021

D.KRISHNAKUMAR, J.
and
P.B.BALAJI, J.

pvs

W.P. No.26570 of 2021

27.09.2023