



WEB COPY

W.P.No.30640 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.30640 of 2024

and

W.M.P.Nos.33250 & 33253 of 2024

- 1.Union of India,
Rep. by its General Manager,
Southern Railway,
Park Town,
Chennai – 600 003.
- 2.The Chief Medical Director,
Moore Market Complex,
Park Town,
Southern Railway,
Chennai.
- 3.Medical Director,
Railway Hospital,
Perambur,
Chennai – 600 023.
- 4.Senior Divisional Security Commissioner,
Railway Protection Force,
Chennai – 600 003.



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5. Assistant Personnel Officer General,
Head Quarters Office,
Personnel Branch,
Chennai – 600 003.

6. Chief Personnel Officer,
Head Quarters Office,
Personnel Branch,
Chennai – 600 003.

... Petitioners

Vs.

P. Anandan

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for records pertaining to the order dated 14.09.2023 in O.A.821/2019 on the file of the Central Administrative Tribunal, Chennai Bench and Quash the same.

For Petitioners : Mr.S.Janarthanam
SPCG

For Respondent : Mrs.Y.Kavitha
For M/s.P.V.S.Giridhar Associates

ORDER

[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

The Union of India is the writ petitioner. The writ petition has been filed challenging the order of the Central Administrative Tribunal dated 14th



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September, 2023 in O.A.No.821 of 2019.

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2. The respondent entered service as a Rakshak in Railway Protection Force (RPF) on 03.04.1982. He was promoted to the post of Head Constable on April 2004. On 18.08.2006, the respondent was diagnosed with L4-L5 disk bulge and underwent spinal cord surgery. He was subsequently placed under the sick list.

3. On 22.01.2007, the Medical Director / 3rd petitioner sought for previous medical reports from the Senior Divisional Security Commissioner, Railway Security Force / 4th petitioner. On 05.02.2007, the 4th petitioner forwarded the medical records to the Medical Board, stating that the respondent had been on the sick list since 18.08.2006.

4. Pursuant to the medical examination order dated 21.02.2008 of the 4th petitioner, the respondent was declared as “unfit for RPF duties in the medical category of 'Bee One' and recommended for alternate employment on medical grounds in the medical category in 'Cee One' and below category for a sedentary job”. The respondent was referred to the Standing Medical Board on 18.08.2006 and was declared unfit on 15.08.2007, after a period of



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12 months. He was initially placed in supernumerary post and subsequently absorbed into an alternate post. The respondent made a representation to treat the period from 22.01.2007 to 16.08.2007 as duty, but it was rejected. Consequently, the respondent filed the Original Application in O.A.No.821 of 2019. The Tribunal allowed the Original Application, resulting in the filing of the present writ petition by the Union of India.

5. Heard the parties to the *lis* on hand.

6. The learned Senior Panel Counsel appearing on behalf of the writ petitioners would submit that the respondent's case would not fall under Rule 524 of the Indian Railway Medical Manual, 2000 [hereinafter referred to as 'IRMM'], which is applicable to the employees sent for periodical medical examination. Instead, the case of the respondent would fall under Rule 538 of IRMM, as it was not a case of periodical medical examination. Rule 538 speaks about "Sick Certificate". However, Rule 524 specifically deals with the "treatment of period absence of railway employee sent for periodical medical examination".



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7. Admittedly, in the present case, the respondent was permitted to take medical treatment from August 2006 onwards. He was diagnosed with L4-L5 disk bulge and underwent surgery in his spinal cord. The authorities referred him to a Medical Board, which passed an order declaring the respondent unfit for performing uniformed services on 15.08.2007. Therefore, the respondent cannot be faulted with reference to the delay caused by the Medical Board in issuing a declaration that he is unfit for performing duties attached to the uniformed service. Administrative delay occurred for issuing medical invalidation cannot be a ground to deny the benefit of salary to an employee.

8. Admittedly, the respondent was declared unfit only on 15.08.2007. Therefore, the period from 22.01.2007 to 15.08.2007 is to be construed as period spent for medical examination. It is not as if the respondent performed duties during the relevant point of time. However, he was under medical examination since the unfit certificate was issued only on 15.08.2007.

9. For all purposes, the interregnum period from 22.01.2007 to 15.08.2007 is to be treated as the period spent for medical examination,



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which would fall within the ambit of Rule 524 of IRMM.

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10. After declaring the respondent unfit to perform RPF duties, he was provided with alternate employment. That being the case, the period from 22.01.2007 to 15.08.2007 has been rightly declared as 'on duty' by the Central Administrative Tribunal, and we do not find any infirmity. Consequently, the Central Administrative Tribunal order dated 14th September, 2023 in O.A.No.821 of 2019 stands confirmed and the Writ Petition is dismissed. The connected Miscellaneous Petitions are closed. No costs.

[S.M.S., J.] [M.J.R., J.]
16.12.2024

Jeni

Index : Yes

Speaking order

Neutral Citation : Yes



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