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W.P.No.32726 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.32726 of 2022

R.Mohan

... Petitioner

Vs.

- 1.The Union of India,
Rep by its Secretary to the Government,
Ministry of Home Affairs,
New Delhi 110 001.
- 2.The Director General,
Central Industrial Security Force,
Head Quarters, No.13,
CGO Complex, Lodhi Road,
New Delhi 110 003.
- 3.The Inspector General,
Central Industrial Security Force,
South Sector Head Quarters,
New War Memorial,
Chennai 600 009.
- 4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai 600 090.



5.The Assistant Inspector General/ Welfare,
Central Industrial Security Force,
Head Quarters, No.13,
CGO Complex, Lodhi Road,
New Delhi 110 003.

6.The Group Commandant,
Central Industrial Security Force,
Group Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai 600 090.

7.The Senior Commandant,
Central Industrial Security Force Unit,
Chennai Port Trust,
Chennai 600 001.

8.The Commandant,
Central Industrial Security Force Unit,
Mormugao Port Trust,
Vasco-da-gama,
Goa 403 802.

9.The Deputy Commandant,
Central Industrial Security Force Unit,
CPCL, Manali, Chennai 600 068.

10.The Assistant Commandant,
Central Industrial Security Force Unit,
CPCL, Manali, Chennai 600 068.

11.The Senior Accounts Officer,
Regional Pay & Accounts Office,
Central Industrial Security Force,
Ministry of Home Affairs,
Rajaji Bhavan, Besant Nagar,
Chennai 600 090.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 9th respondent in his Order No.F-28014/CISF/CPCL/PEN/DISABILITY-RM/2022/3780 dated 12.08.2022 and quash the same and to direct the respondents 1 to 11 to pay the Disability Pension and Constant Attendant Allowance with effect from 31.03.2018 to till date along with arrears of pay to the petitioner.

For Petitioner : Mr.R.Thiyagarajan

For Respondents : Mr.C.Samivel, CGSC

ORDER

This Writ Petition has been filed by the petitioner for quashment of the order passed by the 9th respondent in his Order No.F-28014/CISF/CPCL/PEN/DISABILITY-RM/2022/3780 dated 12.08.2022 and to direct the respondents 1 to 11 to pay the Disability Pension and Constant Attendant Allowance with effect from 31.03.2018 to till date along with arrears of pay to the petitioner.

2. Heard the learned counsel on either side and also perused the materials available on record.



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3. The learned counsel for the petitioner submitted that the petitioner was appointed as Security Guard in CISF on 24.10.1979 at Madras Port Trust. Thereafter, he was promoted as Head Constable in the year 1995. When he was serving in CISF Unit, Mormugao Port Trust, Goa, the competent authority sanctioned 30 days earned leave from 13.03.2005 to 11.04.2005 and he was supposed to join the duty on 12.04.2005 F.N. The petitioner started the journey with his two sons from his home town on 05.04.2005 to his CISF Unit, Goa and during the journey, the petitioner fell down from the running train and sustained injuries in his legs. After recovery from the said injuries, the petitioner joined the duty in CISF Unit, Goa and the Chief Medical Officer, Goa, had declared him as unfit to do Head Constable duties. Thereafter, the petitioner was transferred to CISF Unit, Chennai Port Trust in the year 2008 and finally, he was posted to CISF Unit, Manali in the year 2015. When the petitioner was serving under the 9th respondent, the 6th respondent had issued a Show Cause Notice dated 08.03.2018 under Rule 91(B) of CISF Rules, for proposing to retire or discharge the petitioner from Government Service under medical invalidation. For which, the petitioner submitted his reply and the same was not considered by the 6th respondent, but directed the petitioner to retire from service on 31.03.2018. Aggrieved by



the same, the petitioner was forced to retire from service and invalidation retirement pension in accordance with CCS (Pension) Rules was granted to him. Though petitioner has lost his both legs during the train journey, he reported to back to report duty from the earned leave period and hence, the petitioner is entitled for Disability Pension and Constant Attendant Allowance. In support of his contention, the learned counsel relied on the judgment of the Hon'ble Supreme Court in the case of *Madan Singh Shekhawat Vs. Union of India and others* reported in *AIR 1999 SCC 3378* and the judgment of the High Court of Delhi in the case of *Pradip Goswami Vs. Union of India and others (W.P.(C).No.14166 of 2022)*.

4. The learned Central Government Standing Counsel appearing for the respondents submitted that the representation of the petitioner claiming grant of disability pension and constant attendant allowance was taken up with the 2nd respondent along with the opinion of the 11th respondent. After examining the proposal in consultation with the Financial Advisor, the 2nd respondent held that in terms of eligibility criteria given in Rule 3-A of CCS (EOP) Rules 1939, his case is not fit for grant of Disability Pension and Constant Attendant Allowance. The impugned decision taken by the second respondent



in consultation with the 11th respondent and the Financial Advisor are in consonance with the above clarification. The disablement of the petitioner was not due to Government Service in terms of Rule 3A. Hence, the petitioner is not entitled for disability pension. Since the petitioner is not entitled for disability pension, he is also not entitled for constant attendant allowance as per Rule 9-A. As per Schedule II of the said Rules, the cases for determining compensation payable for disability under different circumstances are categorized in five distinct categories from A to E.

5. In view of the submissions made by the learned Additional Government Pleader and as per the Rules 3-A and 9-A of CCS (EOP) Rules 1939, this Court finds that the petitioner is not entitled for disability pension and constant attendant allowance. Hence, this Court is of the considered opinion that the order of the 9th respondent warrants no interference.

6. Accordingly, this Writ Petition stands dismissed. No costs.

10.09.2024

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Index : Yes / No

Speaking order / Non-speaking order



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