



WEB COPY

W.P.No.87



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

CORAM:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
and
THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

**W.P.No.871 of 2024
and W.M.P.No.901 of 2024**

1.Union of India,
Rep. by its The General Manager,
Southern Railway,
Park Town, Chennai – 600 003.

2.The Senior Divisional Personnel Officer,
Chennai Division,
Southern Railway,
NGO Annex, Park Town,
Chennai – 600 003.

...Petitioners

VS.

1.D.Janardhanan
Station Superintendent,
(Supernumerary),
Katpadi Railway Station,
Chennai Division,

2.The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai – 600 104.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records of the impugned order in O.A.No.1579/2019 dated 24.03.2023 passed by the learned Central Administrative Tribunal, Chennai Bench the 2nd respondent herein and quash the



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For Petitioners : Mr.C.Samivel

ORDER

(Order of the Court was delivered by K.KUMARESH BABU, J.)

The Writ Petition has been filed as being aggrieved against the order of the Central Administrative Tribunal allowing the claim of the first respondent herein by quashing the order passed by the petitioners dated 13.11.2019 with a consequential direction to appoint the first respondent on alternative post which is equal to the post which the first respondent had held at the time of medical decategorisation at Pay Matrix Level 7.

2.We have heard Mr.C.Samivel, learned counsel appearing for the petitioners.

3.Learned counsel appearing for the petitioners would at the outset submit that the Tribunal has wholly erred in failing to look at the Railway Manual which provides for absorption in alternative employment of an employee who had been medically decategorised in the post he is holding. According to him, as per the aforesaid Rules, an employee who had been decategorised would be given a suitable post in a vacancy that arises and in doing so, the Department was at liberty to place him even in a post which carries a lower Pay Scale, but only



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case, he would submit that the first respondent on being medically decategorised had been placed in a lower post carrying lesser Pay Scale and that due care has been taken that the loss in emoluments was to the bare minimum and the first respondent cannot be said to be an aggrieved person. He would submit that the learned Administrative Tribunal had wholly erred in overlooking the aforesaid Rules and directed the first respondent to be given a post which the first respondent held at the time of medical decategorisation at Pay Matrix Level 7.

4.A perusal of the order impugned in this Writ Petition, it could be seen that the Tribunal had relied upon various judgments including a judgment arising out of the said Rules. A Division Bench of this Court had held that Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 protects an employee who had been incapacitated during the service for continuance of service in a suitable alternative post with the same Scale of Pay drawn by him and other service benefits. The Tribunal had also noted that an appeal filed by the Union of India against the aforesaid judgment had also been dismissed. In view of the same, the Tribunal had held that the first respondent was entitled to be given an alternative employment in a post carrying same Scale of Pay as drawn by him when he was medically decategorised and therefore allowed the claim of the first respondent by quashing the order of rejection dated 13.11.2019 with a consequential



direction to direct the petitioners to given alternative post carrying same Scale of Pay.

5.It cannot be disputed by the petitioners that the judgment of the Division Bench as affirmed by the Hon'ble Apex Court is not binding on the petitioners. Further, the Rules relied upon by the petitioners viz., the Indian Railway Employees Manual would have to be subservient to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, particularly, Section 47.

6.In such view of the matter, we do not find any infirmity in the order impugned in this Writ Petition which requires interference of this Court.

7.In fine, the Writ Petition fails and is accordingly dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B.,J.)
18.01.2024

Index: yes/no
Speaking order:yes/no
Neutral Citation:yes/no
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To

The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai – 600 104.



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R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

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