



W.P.No.7046 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE MR. JUSTICE **V.LAKSHMINARAYANAN**

Writ Petition No.7046 of 2025 &
WMP.No.7768 of 2025

- 1.Union of India,
Represented by the General Manager,
Southern Railway,
Park Town, Chennai.
- 2.The Additional Divisional Railway Manager,
Southern Railway, Tiruchirappalli Division,
Tiruchirappalli – 620 001.
- 3.The Senior Divisional Mechanical Engineer,
Southern Railway, Tiruchirappalli Division,
Villupuram.
- 4.The Divisional Personnel Officer,
Southern Railway, Tiruchirappalli Division,
Tiruchirappalli – 620 001. ... Petitioners

Vs.

R.Vetrichelvan

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records of the Central Administrative Tribunal, Chennai and quash the order dated 13.02.2024 in O.A.No.310/01564/2018.

For Petitioners : Dr.P.G.Santhosh Kumar

Respondent : Mr.R.Pandian



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ORDER

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(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)

I heard Dr.P.G.Santhosh Kumar and Mr.R.Pandyan for the respective Parties.

2. For the sake of convenience, the parties will be referred to as per their ranks before the Central Administrative Tribunal, Chennai.

3. This writ petition seeks for the following relief:

“To call for the records of the Central Administrative Tribunal, Chennai and quash the order dated 13.02.2024 in O.A.No.310/01564/2018.”

4. The facts leading to this petition are the applicant joined the South Central Railways as an Assistant Loco Pilot in it Guntakal division on 12.06.2006. He started progressing in his career and was promoted to the post of Senior Assistant Loco Pilot, and thereafter, to Loco Pilot (Goods). He was further promoted to Loco Pilot (Passenger). During this period, he joined the Southern Railways.

5. In September 2017, the Supervisor of the depot called upon the petitioner to work in the higher post of Loco Pilot (Mail and Express). The applicant performed the said duty. Yet again in October



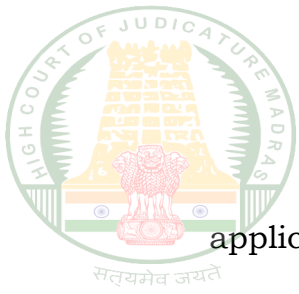
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2017, he was called upon to perform the very same duty. Immediately on receipt of this order from the Supervisor, the applicant responded, on the very same day, by seeking an order from the competent authority permitting the officiating arrangement. The Supervisor marked the applicant absent on 09.10.2017 and 10.10.2017.

6. The applicant, yet again, gave a representation on 10.10.2017 seeking an order from the competent authority, so that he can proceed to work as Loco Pilot (Mail and Express). Instead of receiving the sanction order from the competent authority, the applicant was directed to appear before the Chief Loco Inspector, Villupuram on 11.10.2017 for an enquiry.

7. On 11.10.2017, the applicant appeared before the said authority and explained that he is not unwilling to perform the duties, but only sought for orders from the competent authority. Post the enquiry on 12.10.2017, the applicant was permitted to work as Loco Pilot (Passenger).

8. Soon thereafter, on 19.10.2017, he was visited with a charge memo from the third respondent. The charge against him was that though he is eligible to officiate in express trains as per seniority, the

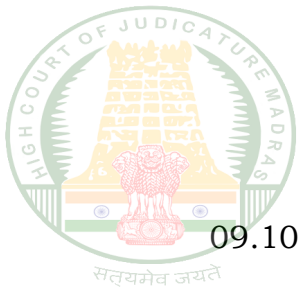


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applicant had refused to do so. Hence, it proposed to impose a minor penalty. The applicant submitted an explanation on 04.01.2018, stating that he had never refused to perform officiate in the higher post, but had only sought for an order from the competent authority to perform the said task. Despite this reply, the disciplinary authority passed an order on 15.05.2018, imposing a penalty of reduction of lower stage by one stage in time scale of pay for a period of 24 months. Consequent to this order, the applicant's salary was reduced from Rs.46,200/- to Rs.44,900/- for a period of 24 months.

9. Aggrieved by this order, the applicant preferred an appeal to the second respondent. The second respondent rejected the appeal and concluded that the applicant had disobeyed the order of the depot Supervisor. Aggrieved by the same, the applicant moved the Central Administrative Tribunal (hereinafter referred to as "CAT") seeking for cancellation of the order passed by the third respondent, and confirmed by the second respondent, and for a further direction to pay the difference in salary.

10. The CAT received the original application and ordered notice to the respondents. The respondents filed a reply. They contended that while the petitioner was working as a Loco Pilot (passenger) on

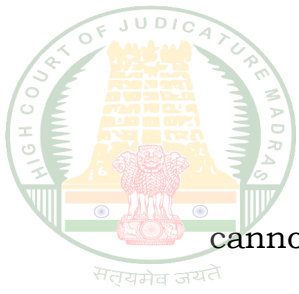


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09.10.2017 and 10.10.2017, he was permitted to take Learning Road and Signal between Villupuram - Chennai Egmore - Villupuram section. It was only a training to identify new roads and signal for a Loco Pilot. Instead of undergoing the training, the applicant absented himself unauthorisedly for two days insisting on an officiating order to be issued by the competent authority.

11. The respondents contended that the applicant had earlier complied with the similar directions in September and October 2017 without asking for any officiating order. They pleaded that the applicant refused to take Learning Road and Signal work as he wanted to avoid working on trains travelling to Chennai Egmore and wanted to work on convenient routes. In addition, they pointed out that a revision lies from the order passed by the second respondent, and as that remedy was not availed, the application is liable to be dismissed.

12. The CAT took up the application for arguments and after hearing both sides, it came to a conclusion that the direction given by the Depot Supervisor was contrary to Rule 103(33) of the Indian Railway Establishment Code (hereinafter referred to as "IREC"). It further held that, for the fact that the applicant on earlier occasion had complied with the officiating arrangement, does not mean that he



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cannot insist on the Rules being strictly complied with. Consequently, it came to a conclusion that the penalty imposed is unwarranted and allowed the application as prayed for. Challenging the same, the present writ petition, at the instance of the respondents.

13. We have carefully considered the arguments on either side and have gone through the records.

14. The IREC has been issued by the President of India. It is a set of rules and regulations issued under the proviso to Article 309. notified. In terms of Appendix VI of IREC, the power to appoint a railway servant to officiate in a vacant post is available with the authority, who has the power to make a substantive appointment to the said post. It is not in dispute that the Supervisor of the Depot is not such a competent authority. It is relevant to note here that the appendix to the IREC has been notified, pursuant to the delegation of power issued by the Excellency, President of India. These are binding on all the Railway authorities including the respondents 2 to 4.

15. Rule 103(33) of Indian Railway Establishment Code reads as follows:

“Rule 103(33) of IREC

Officiating means the railway servant



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officiates in a post where he performs the duties of a post on which any other person holds a lien or when a competent authority appoints him to officiate in a vacant post on which no other railway servant holds lien”.

A reading of this provision shows that the meaning of officiating is when a Railway servant performs duties, over which another person holds a lien, or when a competent authority appoints him to officiate in a vacant post on which no other Railway servant holds a lien. This implies that the competent authority should approve the officiating arrangement and transmit the same to the Supervisor of the Depot in whose favour the orders have been passed. The Supervisor is informed about the said officiating arrangement, so that he can ensure compliance of the order and permit the employee, who had so officiated, to claim officiating allowance. The plea that the exigencies of work required the applicant to perform a role in a higher post is no answer as the power of the Divisional Personnel Officer cannot be usurped by the Supervisor of the Depot.

16. It is the duty of the respondents to ensure strict compliance with the IREC. If the IREC does not have the provision to address the exigencies, the solution does not lie in violating the same, but to seek for appropriate amendments to the said rules.



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17. All that the applicant sought for was an order from the competent authority before he proceeded with an officiating duty. This shows that the applicant was willing to comply with any directions that may come from an authority, who possessed the power to give such a direction. The applicant cannot be penalised for calling upon the respondents to follow the law.

18. Article 14 of the Constitution of India ensures that the Rule of law prevails in this Republic and derives the rule of men. The insistence of the respondents that if a superior passes an order, it should be implemented without any demur, even if it is contrary to law, reminds us of the principle of *Fuhrerprinzip*. The Constitution does not permit the application of the said principle in this country. Lawful orders are alone capable of enforcement.

19. In the light of the above discussion, we do not find any reason to take a different view than that has been taken by the CAT. The writ petition stands dismissed. The respondents shall implement the order of the Tribunal within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.



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(M.S.R, J.) (V.L.N, J.)
14.07.2025

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation : Yes/No

To

1.The Central Administrative Tribunal, Chennai



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