



WEB COPY



W.P.No.6348 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM:

**THE HON'BLE MR.JUSTICE M.S.RAMESH  
AND  
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

W.P.No.6348 of 2021  
and  
W.M.P.No.6963 of 2022

1.The Union of India,  
Rep. by The General Manager,  
Souther Railway,  
Parktown P.O.,  
Chennai-600 003.

2.The Divisional Personnel Officer,  
Southern Railway,  
Madurai Division.

...Petitioners

Vs

1.A.Jones Wilfred Vought

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

...Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2<sup>nd</sup> respondent/Tribunal in O.A.No.310/00219 of 2019 dated 18.02.2020, and quash the same.



WEB COPY



W.P.No.6348 of 2---

For Petitioners : Mr.M.Vijay Anand  
For 1<sup>st</sup> Respondent : Ms.N.R.Jasmine Padma  
For 2<sup>nd</sup> Respondent : Tribunal

### **ORDER**

*(Order of the Court was made by M.S.RAMESH,J.)*

On the ground of medical unfitness, the petitioners had de-categorized and absorbed the 1<sup>st</sup> respondent herein in a stationary post and rejected his request for retiral benefits at the rate of 55%. Furthermore, when the 1<sup>st</sup> respondent had submitted his application seeking for voluntary retirement on 23.05.2018, the application was rejected on 30.08.2018, on the ground that disciplinary case was pending against him. When this proceedings against him was challenged before the Central Administrative Tribunal, Madras Bench (hereinafter referred to as 'the Tribunal') in O.A.No.219 of 2019, the Tribunal had accepted the case of the 1<sup>st</sup> respondent and set aside the order of rejection and directed the petitioners to process his claim for voluntary retirement, through its order dated 18.02.2020. This order of the Tribunal is assailed in the present Writ Petition.

2. Before the Tribunal, the specific stand taken by the petitioners is that the 1<sup>st</sup> respondent was medically de-categorized and absorbed in a stationary



post and therefore is not entitled for the payment of running allowances and to compensate the loss in his emoluments, the enhanced fixation of pay of 30% was allowed to him. Since the applicant was moved to a stationary post due to his medical unfitness, he is not entitled for the retirement benefits at a higher rate of 55% on par with the running staff.

3. The stand taken by the petitioners on the face of it is against the Railway Board's own proceedings dated 29.11.2016, which extends the benefit of higher rate of 55% to the employees, who had opted for voluntary retirement.

This letter reads as follows:-

*“2. The issue has been examined in Board's office and it is observed that the issue is governed under the provisions contained in Board's letter referred to above. To address the specific aspect brought out by Federations, it has been decided that whenever a medically decategorised running staff governed by RS(PR) 1993, who has rendered the prescribed qualifying service opt for Voluntary Retirement either on his own or within period of one month from the date of offer of the first alternative post, his pension may be computed with addition of 55% Pay Element. This 55% benefit will be reckoned after deducting the 30% Pay Element fixation benefit if granted liberty already as per Board's letter dated 05.10.2011 referred to above.*



WEB COPY



W.P.No.6348 of 2---

3. *In case such staff does not give option of Voluntary Retirement within the outer limit period of one month specified herein above, it will be deemed that the staff has accepted the alternative appointment offered and in this case, retirement benefits will be governed by extant instruction on the issue whenever he superannuates or opts for Voluntary Retirement thereafter.*

4. *The period of one month to opt for Voluntary Retirement for those medically decategorised running staff who have already been offered the alternative posts, will start from the date of issue of this letter.”*

4. The aforesaid regulation is self explanatory and therefore, the main ground of rejection of the petitioners claim for 55% benefits cannot be legally sustained.

5. This apart, the 1<sup>st</sup> respondent had submitted his voluntary retirement request on 23.05.2018 under Rule 66 of the Railway Service Pension Rules 1993, within the stipulated time. This application came to be rejected on 30.08.2018, on the ground that there was a minor disciplinary proceedings pending against him. This action of the petitioners is legally unsustainable for two reasons.



W.P.No.6348 of 2---

6. Rule 48 of the CCS (Pension) Rules provides that, an employee, on completion of thirty years of service on notice of three months, shall be deemed to have automatically retired on completion of the three months period. When admittedly, the application for VRS was made on 23.05.2018, he is deemed to have voluntarily retired from service on 23.08.2018 itself. Thus, rejecting his application after a period of three months on 30.08.2018, would be legally unsustainable. Secondly, the disciplinary proceedings against the 1<sup>st</sup> respondent had resulted in a minor penalty of warning.

7. The Hon'ble Supreme Court, in the case of ***B.J.Shelat Vs. State of Gujarat and Others*** reported in ***(1978) 2 SCC 201***, had also dealt with this kind of situation and ultimately held that rejecting the request of voluntary retirement on the pendency of the disciplinary case is not in accordance with the Rules. The Tribunal had placed reliance on ***B.J.Shelat's case (supra)*** for this proposition and had allowed the claim of the 1<sup>st</sup> respondent. Likewise, for the purpose of extending the 55% pay allotment to the 1<sup>st</sup> respondent, the Tribunal had referred to the Railway Board's proceedings dated 29.11.2016.

8. In our view, the Tribunal had rightly appreciated the claim made by the 1<sup>st</sup> respondent herein and had allowed the Original Application. We do not find any valid reason to interfere with the same.



WEB COPY



W.P.No.6348 of 2021

**M.S.RAMESH,J.**  
**AND**  
**N.SENTHILKUMAR,J.**

*hvk*

9. Accordingly, the Writ Petition stands dismissed with a direction to the petitioners to comply with the directions of the Central Administrative Tribunal passed in O.A.No.219 of 2019 dated 18.02.2020, within a period of thirty days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

**(M.S.R.,J.) (N.S.,J.)**  
**04.03.2025**

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

*hvk*

To

The Registrar,  
Central Administrative Tribunal,  
Madurai Bench,  
Chennai-600 104.

**W.P.No.6348 of 2021**