



W.P. No.7018 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2026

CORAM:

THE HON'BLE MR. JUSTICE **M. DHANDAPANI**

W.P. No.7018 of 2024 and
WMP.No.7839 of 2024

THE DIVISIONAL RAILWAY MANAGER,
CHENNAI DIVISION, SOUTHERN RAILWAY, NGO ANNEX,
PARK TOWN, CHENNAI-600 003. ... Petitioner

Vs

1.THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
(DIVYANGJAN), DEPARTMENT OF EMPOWERMENT PERSONS WITH
DISABILITIES (DIVYANGJAN), MINISTRY OF SOCIAL JUSTICE AND
EMPOWERMENT, GOVERNMENT OF INDIA, 5TH FLOOR
NSID BUILDING, PLOT NO.G-2, SECTOR-10, DWARKA,
NEW DELHI-110 075.

2.D.SAM MASILAMANI AGASTAS BABU ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying to issue Writ of Certiorari to call for the records from the file of the 1st
respondent in Case No.13438/ 1024/ 2022 dated 16.05.2023 and quash the same

For petitioner : Mr.K.Ramanamoorthy

For Respondents

For R2 : Mr.K.Venkatramani,
Senior Counsel
for Mr.M.Muthappan

For R1 : Not ready notice



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ORDER

This Writ Petition has been filed praying to quash the records on the file of the 1st respondent in Case No.13438/ 1024/ 2022 dated 16.05.2023

2. The learned counsel appearing for the petitioner would submit that the second respondent was initially appointed as Pro. Assistant Station Master through Railway Recruitment Board and allotted to Guntakal Division. Subsequently he was absorbed as Temporary Assistant Station Master and he took independent charges in the year 1980. Subsequently, he was promoted to the scale of pay in the year 1991 as Station Master-III. He was transferred to Southern Railway on Inter Railway Mutual transfer on own request as Station Master Grade-III and he joined in Madras Division in the year 2002. He earned promotions to various levels. While he was working as Superintendent, he was declared medically unfit for A-2 category by Medical Board on 14.09.2017 and he was placed in supernumerary post in accordance with Section 20 of the Rights of Persons with Disabilities Act, 2016 duly protecting his pay and pay band. Thereafter he made representation seeking to post him as Chief Law Assistant to the concerned cadre controlling authority for consideration and he was recommended by the Screening Committee for the absorption as Office Superintendent on bottom seniority in Electrical Department vide order dated



24.04.2018. Further, the second respondent did not join the post. His lien is maintained as per extent rule No.122 of IREC on being medically decategorised from the post of Station Superintendent. Thereafter, application was made to provide double rate of transport allowance admissible for persons with disability 3rd MACP and 4 days SCL. However, the same was rejected and those benefits which were available to the medically disqualified person were granted except the double the rate of transport allowance. Aggrieved by the same, the second respondent filed complaint before the Chief Commissioner for Persons with Disabilities i.e. first respondent under Section 62 of the Rights of Persons with Disabilities Act and the same was allowed in his favour. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the present writ petition has been filed on two grounds: (i) whether the first respondent have jurisdiction to entertain the claim made by the second respondent relating to the service matters and (ii) whether the second respondent is covered with regard to instructions regarding grant of transport allowance at double the normal rates to the persons with disabilities employed in Central Government.

4. The learned counsel appearing for the petitioner would further



submit that it is purely service disputes in between the petitioner and the second respondent. It has to be ventilated only before the Central Administrative Tribunal. However, the second respondent ventilated his grievance before the first respondent, which is not sustainable one and the first respondent has jurisdiction to entertain the claim strictly in terms of Section 62 of Rights of Persons with Disabilities Act and not relating to service matters. With regard to the second issue whether the person is entitled for grant of transport allowance at double the rate to the normal rate to the persons with disabilities employed in the Central Government and as per clause 1, the categories of the disabilities for the purpose of grant of transport allowance at double the normal rates to the persons with disabilities of blindness, locomotive disability including cerebral palsy, leprosy cured, deaf and dumb, autism spectrum disorder, chronic neurological conditions, blood disorder and multiple disability from amongst the persons under Clauses 1 to 6. In the present case, the petitioner did not cover the above said clauses. Hence, he is not entitled for grant of transport allowance at double the normal rates. Accordingly, he prayed for allowing the writ petition.

5. Per contra, the learned Senior Counsel appearing for the second respondent would submit that admittedly the second respondent suffered with post systematic hypertension, sequela/CAD/Stroke suffered with 60%



disability and chronic neurological conditions and earlier he was referred before the medical board. The medical board by its certificate dated 02.02.2021 declared the second respondent with 60% disability and as if the second respondent suffered with chronic neurological conditions, post systematic hypertension with 60% disability and on that basis, the second respondent was placed in supernumerary post in accordance with Section 20 of the Rights of Persons with Disabilities Act, 2016 and all other benefits were granted by considering the second respondent as person with disability except double the rate of transport allowance. In respect of the first issue i.e. whether the service matters amenable before the first respondent, the very same issue was decided by the Hon'ble Apex Court in the case of ***Geetaben Ratilal Patel Vs. District Primary Education Officer*** reported in ***AIR 2013 SC 3092***, wherein the Hon'ble Apex Court held that the order passed by the first respondent in the similar type of cases in respect of service matters and the same was followed by this Court as well as different High Courts. In respect of the second issue, even on bare perusal of the name of the disability enumerated in the compendium regarding grant of transport allowance at double the normal rates makes it clear serial No.2 locomotive disability including cerebral palsy, leprosy cured, dwarfism, muscular dystrophy and spinal deformity, etc. and clause (iv) is chronic neurological conditions, multiple sclerosis, parkinson's disorder, clause (vi) multiple disorder and clause (vii) multiple disabilities from amongst the



persons of clauses (i) to (vi) and he suffered with chronic neurological conditions, post systematic hypertension with 60% disability. However, the same was not even considered with regard to chronic neurological condition. Hence, the second respondent is entitled to claim double the rate of transport allowance at normal rates in terms of disability certificate provided by the competent authority. As such, he prayed for dismissing the writ petition.

6. Heard, the learned counsel appearing on either side.

7. The facts of the case are not in dispute. Admittedly, while the second respondent was working as Superintendent, he was declared medically unfit for A-2 category by Medical Board on 14.09.2017 and he was placed in supernumerary post in accordance with Section 20 of the Rights of Persons with Disabilities Act, 2016 duly protecting his pay and pay band. Thereafter he made representation seeking to post him as Chief Law Assistant to the concerned cadre controlling authority for consideration and he was recommended by the Screening Committee for the absorption as Office Superintendent on bottom seniority in Electrical Department vide order dated 24.04.2018. Further, the second respondent did not join the post. His lien is maintained as per extent rule No.122 of IREC on being medically decategorised from the post of Station



Superintendent. Thereafter, the petitioner made application to provide double the rate of transport allowance admissible for persons with disability 3rd MACP and 4 days SCL. However, the same was rejected and those benefits which were available to the medically disqualified person were granted except the double the rate of transport allowance. Aggrieved by the same, he filed complaint before the Chief Commissioner for Persons with Disabilities i.e. first respondent under Section 62 of the Rights of Persons with Disabilities Act and the same was allowed in his favour. The issues arising are whether the application is maintainable before the first respondent and whether the second respondent is entitled for grant of double the rate of transport allowance of normal rate. However, in respect of the first issue, whether the petitioner's service matters can be entertained by the first respondent, the very same issue was taken for consideration by the Hon'ble Apex Court in the case of ***Geetaben Ratilal Patel Vs. District Primary Education Officer*** reported in ***AIR 2013 SC 3092***. The relevant portion of the order is as follows:

16. The provisions of Sections 47 and 62 of the Act, when read together, empower the Commissioner, to look into the complaint with respect to the matters relating to deprivation of rights of persons with disabilities and nonimplementation of laws, rules, byelaws, regulations, executive orders, guidelines or instructions issued by the appropriate Governments or local authorities and to take up the matter with the appropriate



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authorities for the welfare and protection of rights of persons with disabilities including matter relating to dispensation with service or reduction in rank. The power of the Commissioner “to look into the complaints with respect to the matters relating to deprivation of rights” as provided under Section 62 of the Act is not an empty formality and the Commissioner is required to apply his mind on the question raised by the complainant to find out the truth behind the complaint. If so necessary, the Commissioner may suo motu inquire into the matter and/or after giving notice, hearing the concerned parties and going through the records may decide the complaint. If it comes to the notice of the Commissioner that a person with disability has been deprived of his rights or that the authorities have flouted any law, rule, guideline, instruction, etc. issued by the appropriate Government or local authorities, the Commissioner is required to take up the matter with the appropriate authority to ensure restoration of rights of such disabled person and/or to implement the law, rule, guideline, instruction if not followed. A complaint may be made by any disabled person himself or any person on behalf of disabled persons or by any person in the interest of disabled persons. Thus the issue as involved is decided affirmatively in favour of the appellant and against the respondent.

17.The appellant was appointed as Primary Teacher on 30th July, 1990 and continued for nine years without any complaint till she proceeded on medical leave on 21st June, 1999. She thereafter, remained absent from time to time for



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about 1360 days from June, 1999 till the date of dismissal. The appellant has taken a specific plea that she was divorced by her husband in the year 1998 and since then she suffered mental depression. The Government Medical Board also held the appellant mentally disabled as she was suffering from 40 to 70 per cent mental disability.

The order of dismissal was passed during her mental disability in violation of Section 47(1) of the Act. In this background, the Commissioner having declared the order of dismissal as void, it was not open to the High Court to interfere with such order and to restore the illegal order of dismissal.

18. Whether under Section 62 of the Act, the Commissioner was competent to declare the order of dismissal as void, was one of the question framed by the learned Single Judge by order dated 11.1.2008. But at the time of hearing, the learned Single Judge failed to notice and decide the question so raised. The Division Bench also failed to notice the aforesaid fact and remained silent on the issue

19. From the documents on record, we find that show cause notices were issued to the appellant and charges were framed but there is nothing on the record to suggest that any departmental proceeding was initiated. Neither any inquiry officer was appointed, nor any notice was issued by any inquiry officer to the appellant to remain present in the departmental proceeding. No evidence was relied upon by the respondent to bring home the charges. Aforesaid facts also show that the order of dismissal was passed in violation of rules of natural



justice.

20. Now the question remains about the back wages, if any, to which the appellant is entitled. The appellant remained absent from duty from time to time for about 1360 days when she was in service. Therefore, she cannot claim any wages for the said period. The order of dismissal was passed on 15.4.2004, but she moved before the Commissioner after a span of three years i.e. in the year 2007. There being delay on her part, in moving before the Commissioner, she cannot claim any salary for such intervening period.

21. Learned Single Judge by interim order dated 11th January, 2008 directed the respondent to reinstate the appellant and to pay her regular salary w.e.f. 1.2.2008 on the following terms:

“8. RULE

(a) By interim order, there shall be stay against the impugned order of the Commissioner to the extent that the petitioner shall not be required to pay any backwages to the respondent, but the petitioner shall reinstate the respondent in service by paying regular salary to her from 1.2.2008.

(b) It is further observed that directed that the petitioner shall get respondent examined through a Government Doctor of their choice and if it is so opined by the doctor, such duty may be assigned to the respondent at a place or a nearby place, where she can comfortably and conveniently, in a safe atmosphere, discharge duty.”



22. In spite of the same, the respondent authority have neither reinstated the appellant nor paid salary w.e.f. 1.2.2008.

So, they cannot take advantage of their own wrong and, thereby, cannot deny the benefit of wages to which the appellant was entitled pursuant to the order passed by the High Court on 11th January, 2008.

23. There is nothing on the record to suggest that the respondent authority got the appellant examined by a Government Doctor to determine the duty to be assigned to her. In view of her reinstatement, now the respondent authority may get opinion of the doctor for assigning her duty. In case the appellant is not in a position to perform the normal duty because of her mental condition, the competent authority will apply Proviso to Section 47(1) of the said Act.

24. Having regard to the fact that we have upheld the order passed by the Commissioner, we direct the authorities to reinstate the appellant in service immediately and to pay her regular salary every month. The appellant shall be entitled to arrears of salary w.e.f. 1.2.2008 which the respondent shall pay within three months, else the appellant shall become entitled to interest at the rate of 6% per annum with effect from 1.2.2008 till the actual payment.

25. The appeal is allowed in the manner indicated above and the orders passed by the learned Single Judge and the Division Bench of the High Court are set aside. There shall be no order as to costs



8. On perusal of the above decision makes in clear that the Chief Commissioner have power to entertain the service matters if the respective authority arrived at a conclusion that a person with disability not entitled for any of the benefits as enumerated in Section 62 of Rights of Persons with Disabilities Act, he is entitled to file a complaint before the first respondent, in which the first respondent rightly entertained the complaint and pass orders in favour of the second respondent. Applying the ratio laid by the Hon'ble Apex Court, the first issue is answered in favour of the second respondent.

9. In respect of the second issue, it is equally undisputed fact that all the benefit applicable to the persons with disability except the double rate allowance on the ground the compendium on instructions regarding the grant of transport allowance double the rate of normal rates not available. The relevant portion of the same is as follows:

“The consolidated and updated provisions on various aspects on grant of Transport Allowance at double the normal rates to persons with Benchmark disabilities employed in Central Government, are as under:-

1. Categories of disabilities for the purpose of grant of Transport Allowance at double the normal rates:

1.1. The Central Government employees with following categories of disabilities as mentioned in Rights of Persons with



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Disabilitles (RPWD) Act, 2016 of D/o Empowerment of Persons with Disabilities (EPWD), shall be paid Transport Allowance at double the normal rates subject to fulfilment of the stipulated conditions:

(i)Blindness

(ii)Locomotor disability Including Cerebral Palsy, Leprosy cured, Dwarfism, Acid Attack victims, Muscular Dystrophy and Spinal Deformity etc.

(iii)Deaf & Dumb and hearing impairment

(iv)Autism Spectrum disorder, Intellectual disability

(v)Chronic Neurological conditions

(vi)(a) Multiple Sclerosis

(b) Parkinson's disease

(vi)Blood Disorder:

(a) Haemophilla

(b) Thalassemia

(c)Sickle Cell disease

(vii)Multiple disabilities from amongst persons under clauses (1) to (vi)

2.. Eligibility Criteria:

2.1. Employees with Benchmark disability having valid certificate of disability shall be eligible to draw Transport Allowance at double the normal rates.

2.2. Persons with Benchmark disability has been defined under Section 2 (r) of the RPWD Act, 2016,

3. Procedure to be followed for grant of Transport Allowance at double the normal rates:



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1. *The condition of recommendation of the concerned Head of Department of the Government Hospital, is done away with in terms of guidelines notified by D/o EPwD vide Notification dated 04.01.2018, as modified from time to time. The Certificate of Disability Issued by the Certified Medical Authority may suffice. Employees covered under the preceding Para B (1) (1) to (vii) above shall apply for grant of Transport Allowance at double the normal rates to the Administrative authority of their Departments on the basis of Certificate of Disability issued by the Certified Medical Authority in terms of guidelines for the purpose of assessing the extent of specified disability notified on 04.01.2018 by D/o EPwD. In case of any doubt, the case may be referred to the concerned Head of Department of Government Hospital. The allowance may be granted with effect from the date, the Certificate of disability is received by the Administrative authority in the concerned Ministry/Department.*

3.2. *In case of doubt over Certificate of disability, the Head of the Department may refer the employee to the Government Civil Hospitals/Medical Authority for getting confirmation regarding disability. The employee may be reimbursed the actual travelling expenses subject to a maximum Travelling Allowance admissible for a Journey on tour without any Daily Allowance for the period of journey and for halts. The period spent on Journeys and also at the hospitals shall, however, be treated as duty. If any fee is charged by the Central*



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Govt. Hospital/Union Territory Hospital/State Government Hospitals, it shall be reimbursed to the employees concerned.

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3.3. Government employee who at the time of appointment submit valid Disability Certificate Issued by Certified Medical Authority in terms of Notification issued by D/o EPWD dated 04.01.2018 as amended from time to time, would be granted Transport Allowance at double the normal rates from the date of appointment itself. In all other cases, the Transport Allowance at double the rates would be admissible from the date, the requisite certificate is received by the Administrative authority concerned.

3.4. Government employees already getting the benefit of Transport Allowance at double the normal rate on the basis of certificates obtained from Government Civil Hospitals as per earlier instructions, would continue to get it on the basis of those certificates.”

10. On perusal of the OM, makes it clear that persons with locomotive disability and chronic neurological conditions entitled to claim double the rate of allowance and in the present case, admittedly the petitioner referred the second respondent for medical board and the medical board after assessing the disability, issued certificate in which the second respondent is entitled to. Therefore, the order of the first respondent cannot be interfered with.



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11. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To

THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
(DIVYANGJAN), DEPARTMENT OF EMPOWERMENT PERSONS WITH
DISABILITIES (DIVYANGJAN), MINISTRY OF SOCIAL JUSTICE AND
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NSID BUILDING, PLOT NO.G-2, SECTOR-10, DWARKA,
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M. DHANDAPANI, J.

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