

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCHDated the Thursday, 16th day of June Two Thousand And Sixteen

PRESENT:

THE HON'BLE SHRI R. RAMANUJAM, MEMBER (A)

O.A./310/00693/2015

K. Shanmugam,
S/o. late D. Kuppusamy,
No. 47/1, Mariamman Koil Street,
Karaikadu Village,
Copper Quarry Post,
Cuddalore- 607 005.

....Applicant.

(By Advocate :M/s. Ratio Legis)

-versus-

1. Union of India rep by
The General Manager,
Southern Railway,
Park Town, Chennai- 600 003;
2. The Divisional Personnel Officer,
Tiruchchirappalli Division,
Southern Railway,
Trichy- 620001.

....Respondents

(By Advocate:Ms. A. Lakshmi)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Applicant has filed this O.A. seeking the following relief:-

"to call for the service records of late D. Kuppusamy and the requests of the applicant pending with the respondents and to direct the respondents to extend the benefit of Family Pension in terms of Rule 75 of the Pension Rules to the applicant and to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper."

2. Heard both sides.
3. Learned counsel for the applicant draws attention to the provisions under Rule 75 of the Railway Services (Pension) Rules 1993 as well as latest instructions on the subject issued by the Ministry of Railways, Railway Board dated 11.01.2016 with reference to Office Memorandum of the Department of Pension and Pensioners' Welfare (DOP& PW) No. 1/18/01-P & PW(E) (Vol.II) dated 05.11.2015. The learned counsel for the applicant would contend that in view of the said provisions, certificate issued by the Government of Tamilnadu, Welfare of Differently Abled Persons Department should suffice for grant of family pension.
4. Learned counsel for the respondents, however, points out that the certificate produced by the applicant appears to be suspect in as much as while on the one hand it indicates the percentage of disability as 80%, on the other hand, it also shows that the occupation of the applicant: Wage Earner as a Coolee. In terms of the relevant rule, it is not sufficient to

establish the degree of disability unless it could be proved that such disability rendered him unable to earn a livelihood even after attaining the age of 25 years. This fact could only be established by a medical examination conducted by a duly constituted Medical Board under the supervision of Chief Medical Superintendent of the Railway Board.

5. I have carefully considered the matter in the light of the pleadings and the aforesaid arguments.

6. It is a fact that the applicant has not yet been examined by the competent medical authority of the Railway Board as required under the relevant rule. In order to examine whether a certificate issued by a state authority—assuming that such certificate was indeed issued could be deemed sufficient under the Persons With Disability Act and the instructions there-under, whether there is any contradiction between such instructions and rules followed by the Railway Board and in such an event, whether the former would have an overriding effect over the rules, relevant material needs to be brought on record. However, at this stage, the learned counsel for the applicant submits that the applicant would be willing to subject himself to medical examination by a duly constituted Medical Board under the supervision of Chief Medical Superintendent of Railway Board and, accordingly, respondents may be directed to conduct the medical examination.

7. I am inclined to accept the request of the learned counsel for the applicant. Accordingly, the applicant is directed to submit a representation to the respondents in this regard offering to subject

himself to medical examination within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of such representation, the respondents shall have the medical examination of the applicant conducted as per law within a period of three weeks thereafter. In the event of his being found eligible, both in terms of the degree of disability as well as earning capacity, the applicant's case shall be processed further for sanction of family pension accordingly and a speaking order issued within a further period of three weeks.

8. With the above direction, the O.A. is disposed of. There shall be no order as to costs.