

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Monday 26th day of November Two Thousand And Eighteen

PRESENT:

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

O.A. 310/1562/2018

A. Masilamani,
S/o. Late P. Annachamy,
D.No. 161/13/1,
Shenbaga Nagar, 3rd Street,
North Iluppaurani Post,
Kovilpatti Taluk,
Thoothukudi District.

....Applicant

(By Advocate: M/s. Thenmozhi Shivaperumal)

Versus

Union of India Rep. by its

1. The General Manager,
Southern Railway,
Chennai- 600 003;

2. The Divisional Railway Manager,
O/o. The Divisional Railway Manager,
Southern Railway,
Madurai.

...Respondents

(By Advocate: Mr. P. Srinivasan)

O R A L O R D E R

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

Heard. The applicant has filed this O.A seeking the following reliefs:-

" to set aside the order passed by the second respondent dated 08.10.2018 in proceedings No. U/P353/OA865/18 and direct the 2nd respondent to sanction the salary for the period of the applicant's medical treatment from 03.05.2007 to 02.07.2008 and sanction the gratuity and other monetary benefits for the period of six years to the applicant."

2. It is submitted that the applicant sought salary for the period of his medical treatment from 03.05.2007 to 02.07.2008 and sanction of gratuity and other monetary benefits accordingly on the basis of his representation dated 11.01.2018 made to second respondent. As there was no satisfactory response, the applicant filed O.A. 865/2018 which was disposed of by this Tribunal by order dated 06.07.2018 directing the respondents to consider the representation of the applicant and pass a reasoned and speaking order in accordance with the relevant rules. The impugned order dated 08.10.2018 has been passed in pursuance thereof, aggrieved by which the applicant is seeking the aforesaid relief from this Tribunal.

3. Learned counsel for the applicant would submit that the applicant had been referred to attend the Perambur Railway Hospital for opinion regarding his fitness for duty in Aye-Two classification following a diagnosis on 03.05.2007 by Sr. DMO/RH/MDU that the applicant had defective colour vision and had been taken under sick list. Perumbur Railway Hospital

referred him to Sankara Nethralaya with an observation of an illness of sudden loss of colour vision – BE on 21.06.2007. However, although the result was not favourable to the applicant upon which the applicant was de-categorised to B-2 class and referred to Special Medical Board, the Medical Board declared him fit for A2. Subsequently, the applicant joined duty on 03.07.2008. The applicant made representation dated 13.08.2008 to treat the entire sick period as on duty as per para 524(ii) of IRMM 2000. However, no action was taken on the representation. The applicant was pursuing the matter vigorously and, as such, the applicant could not be blamed for the delay, it is urged.

4. On perusal, it is seen that in the impugned order, the respondents have clearly stated that the issue of adding a period of six years to the applicant's service for the purpose of gratuity would be inconsequential as the applicant had been paid the maximum gratuity payable at 16½ times of the last pay drawn for a total qualifying service of 33 years. As the addition of service did not enhance the claim in any manner, it was correctly held that the applicant was not entitled to any further claim of gratuity.

5. As regards the claim for the interregnum between 3.5.2007 and 2.07.2008 to be treated as duty period, it is stated that at this distant date i.e. after a period of 11 years, the documents relating to the applicant's PME attendance were not available at the Railway Hospital. However, the matter had been examined on the basis of the documents made available by the applicant. It was found that the applicant had been diagnosed to have

defective colour vision on 3.5.2007 and was referred to Sankara Nethrayala hospital with an observation of illness of sudden loss of colour vision – BE on 21.06.2007. According to the Sankara Nethryala's case summary, the applicant's colour vision was checked with Ishihara's test plate and he had failed to identify even a single plate out of the sixteen. The applicant was, therefore, diagnosed with congenital colour blindness in both eyes and recommended for change of job. He was de-categorised to B-2 class and then referred to Special Medical Board. The Special Medical Board declared the applicant fit in A2 after which the applicant joined duty on 03.07.2008.

6. As far as the applicability of para 524(ii) of IRMM 2000 in support of the applicant's claim, it has been held that the said para was not applicable to the applicant inasmuch as he had been diagnosed with defective colour vision on 3.5.2007 itself and was taken under the sick list for providing treatment for defect in vision. The expenses towards treatment were borne by the Railways and it was only after the treatment that the applicant had been declared fit for the categorization of A2 and taken on duty on 3.7.2008. The period spent on medical treatment was for curing the applicant of the defect in the vision in his eyes and was in his own interest. It is further stated that in the applicant's leave records, no leave was available in credit at the relevant time and, therefore, the applicant's absence could not be regularized as leave.

7. It is seen that the applicant has not given any credible reason for explanation why he failed to pursue the relief after submitting the alleged

representation stated to be acknowledged on 18.08.2008. Even this representation does not appear to have been annexed with the acknowledgement of the applicant's representation and, therefore, the respondents could not be faulted for rejecting the applicant's claim in the absence of PME attendance at Railway Hospital at this distant time. As the applicant has not offered any credible explanation for not pursuing the case for over nine years and the respondents have rejected his claim on the ground that a one time payment of salary for a specific period could not be considered to be a continuing cause of action, it is not possible for this Tribunal to interfere with the impugned order.

8. OA is dismissed as devoid of merits. No costs.

(R. RAMANUJAM)
MEMBER (A)

26.11.2018

Asvs.