

**Central Administrative Tribunal
Madras Bench**

OA 310/01579/2018

Dated Monday the 3rd day of December Two Thousand Eighteen

P R E S E N T

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

K.E.Mohammed Hussain, M/61,
S/o Mohammed Ibrahim,
No. 69/A, Moolaikollai Street,
Thennur,
Thiruchirapalli District 17. .. Applicant

By Advocate **M/s. R. Jayaprakash**

Vs.

1.Union of India,
rep by its Secretary,
Ministry of Railways,
Government of India,
543, Rail Board,
Raisina Road,
New Delhi 110001.

2.The Divisional Personnel Officer,
Personnel Branch,
Southern Railway,
Tiruchirapalli Division,
Tiruchirapalli. .. Respondents

ORAL ORDER

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

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“a. To call for the records pertaining to the proceedings of 2nd respondent in Proceedings No. T/P.500/M-172/2017-18 dated 28.08.2018 and quash the same as illegal, incompetent and ultravires and consequently direct the respondent to reckon the past services of the applicant to pay the retirement benefits including pension within a time frame as stipulated by this Tribunal

b. Pass such further or other orders”

2. It is submitted that the applicant was aggrieved by Annexure A17 impugned order dated 28.08.2018 by which his representation for grant of pension and other terminal benefits had been rejected. It is alleged that the applicant suffered from mental illness on account of which he could not report for duty. He was advised rest for the period from 01.01.1997 to 01.01.2000 for 'Depressive Psychosis'. As there was no improvement in his mental health, he was further treated and later, he was found fit for work w.e.f. 11.10.2009. The applicant was absent from duty for nearly 13 years for reasons beyond his control and as such he had filed a revision petition against the penalty of removal from service in 2013. Subsequently the applicant was reappointed on 26.02.2014. As such, the applicant is entitled to

reckon his past services for the purpose of pension, it is contended.

3. On perusal, it is seen that the applicant has not relied on any law, rule/standing instructions to claim counting of past services under such circumstances. It appears that the applicant was reappointed into service on a sympathetic consideration of his case but the penalty of removal from service itself was not withdrawn or modified. Under such circumstances, in the absence of any specific rule or standing instruction in this regard, it would not be possible to direct the respondents to grant the benefit of past services to the applicant. It is entirely for the respondents to see if the facts and circumstances of the applicant's case warrant revisiting the penalty of removal, for such modification as would allow the applicant the benefit of past services.

4. OA is dismissed for want of adequate grounds for interference.

(R. Ramanujam)
Member(A)

AS