

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

MA No.227/2019 in & OA.No.506/2019

Dated Tuesday, the 9th day of April, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

L. Thangaraj
1C, 4th Street, Kinathu Kadu
Vanjipalayam Road
Tiruppur District. ... Applicant

By Advocate M/s J. Franklin
Vs.

1. Union of India, represented by
The Senior Divisional Finance Manager
Office of the Senior Divisional Finance Manager
Southern Railways, Salem 636 005.

2. The Divisional Accounts Officer
Office of the Divisional Finance Manager
Southern Railways
Salem Junction 636 005.

3. The Chief Medical Superintendent
Southern Railway
East Railway Colony
Salem 636 005.

4. P. Vaithiyalingam (Retd. Railway Employee)
1/79, Jaghir Reddipatty
Mamamgam Post
Salem – 636 302. ... Respondents

By Advocate Mr.P.Srinivasan

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

Heard. MA No.227/2019 has been filed by the applicant for condonation of delay of 164 days in filing this OA.

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

"To set aside the order of the 1st respondents in P500/Sr. DFM/SA/Pension dated 06.10.2017, directing the respondents 1 and 2 herein to disburse the balance terminal benefits to the applicant within a stipulated time period and pass such further or other orders".

2. The applicant is aggrieved by alleged non-release of his terminal benefits following his superannuation on 30.06.2016. It is submitted that the 4th respondent filed a money suit against the applicant due to which his terminal benefits had been withheld. Accordingly, the applicant filed OA 598/2017 before this Tribunal which was disposed of by an order dated 06.06.2017 directing the respondents to consider and pass a reasoned and speaking order on his representation. The impugned order dated 06.10.2017 came to be passed in pursuance thereof, aggrieved by which the applicant is before this Tribunal in this second round of litigation along with a M.A. for condonation of delay in filing this OA.

3. Mr.P.Srinivasan, Senior standing counsel for Railways, takes notice for the respondents.

4. Learned counsel for the applicant would submit that the civil suit filed by the 4th respondent in OS No.257/2016 before the II Additional Sub Judge, Salem is still pending and there are no interim orders. The official respondents were not justified in entering into a private dispute between the applicant and the 4th respondent by withholding his terminal benefits in the absence of any direction from the civil court. Accordingly, it is prayed that the official respondents be directed to release all the terminal benefits due to him.

5. I have considered the matter. It is not in dispute that the 4th respondent has filed a civil suit against the applicant in the court of II Additional Sub Judge, Salem who has issued summons to the applicant herein as well as to the official respondents. The applicant's request for release of terminal benefits has not been acceded to in order to avoid future legal complications and to safeguard the interest of the Railway Administration. The Railway Administration has already filed the written statement in the suit.

6. In the above circumstances, it would appear that the remedy for the applicant lies in the civil court where he could make efforts

to get the proceedings expedited. As the applicant's terminal benefits have not been denied to him and the official respondents are only awaiting the civil court order, I am of the view that it is premature for the applicant to approach this Tribunal. Accordingly the OA is liable to be dismissed .

7. At this stage, learned counsel for the applicant would submit that the terminal dues of the applicant worked out to a sum of Rs.8,38,580 out of which only Rs.5,22,056 has been kept under deposit by the respondents. As such, a direction may be issued to the respondents to release the balance amount.

8. Learned counsel for the applicant would further submit that the applicant may be permitted to submit another representation to the competent authority along with an offer for indemnity bond/bank guarantee in the event of his losing the suit before the Civil court.

9. As the impugned order is silent on the release of balance amount, the respondents are directed to consider the release of the balance amount as retention of any amount over and above what is deposited before the civil court would not be justified. As regards the offer of indemnity bond/bank guarantee, if any representation

is made along with the same, it is for the competent authority to consider the same duly safeguarding their interests.

10. OA is disposed of as above. Consequently, the MA for condonation of delay stands disposed of.

**(R.RAMANUJAM)
MEMBER (A)
09.04.2019**

M.T.