

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2015

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No. 1731 of 2014

K. Sivadurai Appellant/Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corp.,
12 Ramakrishna Road,
Salem 636 007.
2. The Administrator,
TNSTC Employees Pension Fund Trust,
Administrative Office,
Thiruvalluvar House,
Pallavan Salai, Chennai.2.
3. The Assistant Manager,
(Pension & PF Section),
Tamil Nadu state transport Corp.,
(Salem) Ltd., 12 Ramakrishna Road,
Salem 636 007.

... Respondents

Writ Appeal filed to set aside the order dated 28.03.2011 passed in WP.No.23913/2010 and allow the writ appeal.

Petition under Article 226 of the Constitution of India praying for a Writ of certiorari/mandamus, calling for the records connected with the orders dated 23.08.2006 passed by the 2nd Respondent rejecting the petitioner's request for VRS in his proceedings No.E4/28154/TNSTC (Salem)/2006 and the consequential proceedings Lr.No.O.U./TNSTC(Salem)/2008 dated 27.11.2008 passed by the 3rd respondent and quash both of them and directing respondents to sanction pension and other retiral benefits to the petitioner for his 26 years of qualifying service and also interest for belated payment of retiral benefits.

For Appellant : Ms. S. Girija

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI,J.,)

The appellant, who was the petitioner before the Writ Court, questioned the legality of the order dated 23.8.2006 passed by the second respondent and the consequential order dated 27.11.2008 passed by the third respondent and further, sought a direction to the respondents to sanction pension and other retiral benefits to him on completion of 26 years of qualifying service with interest.

2. The incontrovertible facts are that the appellant, while working as Assistant in the respondents - Transport Corporation, made an application on 10.8.2006 seeking voluntary retirement. The said application was rejected by order dated 23.8.2006 on the ground that the appellant had not completed 50 years of age, as required under Voluntary Retirement Scheme, though he had completed 20 years of service. Thereafter, the appellant made another application on 18.11.2006 seeking permission to retire from service under the Voluntary Retirement Scheme on medical ground. By communication dated 8.12.2006, the appellant was directed to appear before the Medical Board attached to the Government Mohan Kumaramangalam Medical College Hospital, Salem. The Medical Board found the appellant fit for duty vide certificate dated 08.1.2007. Thereafter, the appellant made one more attempt to seek permission for resignation by making an application on 19.3.2007 stating that on account of family circumstances and health condition, he be permitted to resign from the post, which was accepted on 21.3.2007. Thereafter, the appellant has made a representation for grant of retiral benefits on 15.11.2008, which was rejected under Rule 2(i) of Tamil Nadu State Transport Corporation Employees' Pension Fund Trust Rules, holding that the appellant was not entitled to pension, which is the subject matter of the writ petition. Before the Writ Court, the appellant has also questioned the legality of the earlier order dated 23.8.2006 rejecting his application for voluntary retirement on the ground that he had not completed 50 years of age, which was a pre-requisite for seeking voluntary retirement.

3. The Writ Court, after having considered all aspects of the matter, came to the conclusion that the writ petitioner was not permitted to go on voluntary retirement on medical ground and as such, he was not entitled to any benefit under Rule 23 of the Tamil Nadu Pension Rules, 1978, and as such, ratio laid down in

D.Vijayarangan vs. Secretary, Sales Tax Appellate Tribunal (Addl.Bench) Madurai¹ is not applicable to the instant case.

4. We have considered the submissions of the learned counsel for the appellant and also perused the pleadings and documents appended thereto.

5. There is no dispute that the appellant's application for voluntary retirement on health ground was rejected as the Medical Board found him fit for service. It is also not in dispute that his earlier application dated 10.8.2006 seeking voluntary retirement under the Voluntary Retirement Scheme was also rejected on the ground that he had not completed the requisite 50 years of age as per the Voluntary Retirement Scheme. His subsequent application for resignation was accepted, not on the ground of health, but, only on the ground of family circumstances and as such, the appellant was not entitled to pensionary benefits claimed on the basis of the observation made by this Court in the decision cited supra. The appellant is unable to produce any provision, which entitles him to claim pensionary benefits after resignation from service voluntarily. Thus, the order dated 28.3.2011 passed by the Writ Court is flawless and in accordance with law, warranting no interference.

6. As a sequel, this intra-Court appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ra
To

1. The Managing Director,
Tamil Nadu State Transport Corp.,
12 Ramakrishna Road,
Salem 636 007.

2. The Administrator,
TNSTC Employees Pension Fund Trust,
Administrative Office,
Thiruvalluvar House,
Pallavan Salai, Chennai.2.

1) 2009 Writ L.R. 12

3. The Assistant Manager,
(Pension & PF Section),
Tamil Nadu state transport Corp.,
(Salem) Ltd., 12 Ramakrishna Road,
Salem 636 007.

W.A.No.1731 of 2014

CA(CO)
PMK.11.2.2015



WEB COPY