

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W. P. NO.16851 of 2014

M.P.Nos.1 & 2 of 2014

G.Kulandaivelu

...Petitioner

Vs.

1. The Director,
Institute of Road Transport,
100 Feet Road, Taramani,
Chennai - 600 113.

2. The Dean,
IRT Perundurai Mdical College,
Sanatorium - 638 053,
Perundurai Taluk,
Erode District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order made in Ref:46/U9/IRT/PMCH/2013 dated 04.06.2013 passed by the 2nd respondent, quash the same, consequently direct the respondents to allow the petitioner to continue in service till the completion of 60 years with all attendant benefits.

For Petitioner : Mr.N.Manokaran

For Respondents : M/s.Kala Ramesh

O R D E R

This petition is filed to call for the records pertaining to the impugned order made in Ref:46/U9/IRT/PMCH/2013 dated 04.06.2013 passed by the 2nd respondent, quash the same and to consequently direct the respondents to allow the petitioner to continue in service till the completion of 60 years with all attendant benefits.

2. The order of rejection issued by the second respondent by proceedings dated 04.06.2013 is under challenge in this writ petition. The claim of the writ petitioner is for continuance of his service till he completes the age of 60 years.

3. The learned counsel for the petitioner vehemently contended that as per rules, the writ petitioner is entitled to continue in service till he attains the age of 60 years. However, he was relieved from service on attaining the age of 58 years, on 30.06.2014. In order to substantiate the claim, the petitioner states that as per 56(a) of the Fundamental Rules the petitioner is entitled to continue till he attains the age of 60 years. In view of the fact that the writ petitioner was appointed as Cook on 01.06.1978 and his service was confirmed with effect from 01.06.1979, selection grade was awarded to the writ petitioner with effect from 13.06.1998. Thereafter, he was re-designated as MNO with effect from 15.12.1994. The writ petitioner was awarded Special Grade with effect from 13.06.2009. It is pertinent to note that the writ petitioner was promoted to the post of OP Attender with effect from 20.09.2011 and his pay has been fixed at Rs.11,120/- in the pay scale of Rs.5200-20,200 G.P.Rs.1800/-. Thus, with effect from 20.09.2011 the writ petitioner has not worked as last grade servant. Hence, he is not eligible to continue in service beyond 58 years.

4. The learned counsel for the respondent opposed the contention of the writ petitioner by stating that the Rule cited by the writ petitioner i.e., 56(a) of the Fundamental Rules is not applicable to the case of the writ petitioner, in view of the fact that the writ petitioner was promoted to the post of OP Attender with effect from 20.09.2011 and he was fixed with the pre revised scale of Rs.5200-20,200 G.P.Rs.1800/- thus the writ petitioner was not a last grade servant and therefore he is not entitled to continue in service at the age of 58 years. The learned counsel for the respondent also states that the writ petitioner was allowed to retire from service and relieved with effect from 30.06.2014 and his retirement and terminal benefits were also settled and he has acknowledged the same. In these circumstances, the case of the writ petitioner cannot be considered and accordingly the writ petition deserves to be rejected.

5. This Court is of the view that in order to claim the age of retirement, the writ petitioner has to substantiate through the Rules. In this regard the writ petition is filed on the ground that as per 56(a) of the Fundamental Rules, the petitioner is eligible to continue in service up to the age of 60 years. However, this Court is of the opinion that the Rule is not relevant in respect of the post in which the writ petitioner served more specifically in the post of OP Attender. In this view of the matter, no further adjudication on merits needs to be under taken in this writ petition.

6. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

dpq

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director,
Institute of Road Transport,
100 Feet Road, Taramani,
Chennai - 600 113.
2. The Dean,
IRT Perundurai Medical College,
Sanatorium - 638 053,
Perundurai Taluk,
Erode District.

+1cc to Mr.N.Manokaran, Advocate SR.No.80041
+1cc to M/s.Kala Ramesh, Advocate SR.No.80467

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sm:4.12.2017

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