

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.84 of 2006

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner, who is formerly a driver in APSRTC, seeking a direction to the Corporation and its Officers to pay all additional monetary benefits to him as per Circular No.PD-40/ 2005, dated 26.08.2005.

2. I have heard the submissions of Sri P. Govinda Rajulu, learned counsel appearing for the writ petitioner, and of Sri A. Rama Rao, learned Standing Counsel for APSRTC representing the respondents. I have perused the material record.

3. The case of the petitioner and the submissions made on his behalf, in brief, are as follows:

The petitioner having served the Corporation as a Driver on its rolls retired from service, on 29.04.2003, on medical grounds after the medical officer of the Corporation certified that he was unfit for A1 category, that is, the post of driver, due to defective vision. Thus, without providing alternative employment to the petitioner, the afore-stated orders were passed retiring the petitioner from service on medical grounds in terms of regulation No. 6 A(4) of APSRTC Employees (Service) Reg.1964 (hereinafter 'Regulations, 1964'). The respondents paid the amounts due and payable to the petitioner on such retirement. Thereafter, the Vice Chairman and Managing Director of the Corporation, that is, the 1st respondent, issued the subject Circular, dated 26.08.2005, with regard to additional monetary benefits and implementation of amended Regulation 6A(5) of Regulations, 1964,

providing for better benefits to medically unfit drivers. Basing on the terms of the said Circular, now, the petitioner claims additional monetary benefits.

4. The case of the Corporation in its counter and the submissions made on its behalf, in brief, are as follows:

As per the Board resolution, dated 28.07.2003, a notification, dated 08.10.2003, was issued according approval for amending regulation No.6A(5) of Regulations, 1964, providing for better benefits to medically unfit drivers. The head office *vide* letter, dated 10.11.2003, instructed not to take further action on the notification till Circular guidelines are issued. Again the Corporation has issued Circular No.44/ 04, dated 22.11.2004, instructing the unit officers not to retire the employees who make a request for retirement due to ill health and inability to perform duties, but send them for medical Examination to the medical officers and if they are found unfit, they shall not be retired on medical grounds straight away but shall be directed to Superintendent APSRTC, Taranaka, for specialised examination and based on the certification received from Taranaka hospital, the employees shall be retired on medical ground, if found unfit. The notification, dated 08.10.2003, was kept in abeyance, for want of approval of the Government. The Government *vide* letter, dated 24.06.2005, accorded approval for amending regulation 6A(5) of Regulations, 1964, with effect from 08.10.2003. Thus, it is relevant to state that the amended regulation was given effect from 08.10.2003 onwards. As such all the employees, who are eligible, to retire on medical grounds with effect from 08.10.2003 are only eligible for the benefit of amended regulation. Paragraph 8 of the Circular, dated

26.08.2005, deals with a situation where final orders were already passed as per notification, dated 08.10.2003, as on 10.11.2003. It is clarified in the said Circular, dated 26.08.2005, that cases of drivers who were already retired on medical grounds prior to issuance of instructions and where final orders were already given, such cases shall not be reopened. Therefore, drivers who retired on medical grounds before 08.10.2003 are not eligible to avail the benefit of amended regulation. Hence, the writ petition may be dismissed.

5. Before proceeding further, it is to be noted that the petitioner retired from service on 29.04.2003 on medical grounds as per the decision taken by the Corporation to retire him *vide* orders dated 29.04.2003 on medical grounds instead of providing alternative employment. Subsequent to the retirement of the petitioner, the relevant regulation was amended with necessary approval providing better benefits to medically unfit drivers, who retire on medical grounds. It is not in dispute that the Corporation issued Circular No.45/ 05, dated 26.08.2005, for implementation of the amended regulation. Though the petitioner retired on 29.04.2003, in view of the Circular that was issued on 26.08.2005 for implementation of the amended regulation, he now claims the benefit of the regulation which was amended subsequently with effect from 08.10.2003.

6. Therefore, the question is as to whether the petitioner who retired, on 29.04.2003, before the amendment of the regulation and before the issuance of the Circular, dated 26.08.2005, is entitled to claim the revised additional benefits basing on the amended regulation and the terms of the Circular, dated 26.08.2005.

7. It is now necessary to refer to the relevant terms of the Circular, dated 26.08.2005. Paragraph 4 of the Circular reads as under: 'Now, the Government through the reference 5th cited have accorded approval for amending Reg.6 A(5) of APSRTC Employees (Service) Reg.1964 with effect from 08.10.2003.' The said letter under reference 5th cited is the letter of the Principal Secretary concerned of the Government, dated 24.06.2005. Thus, for the amending regulation 6 A(5) of the Regulations, 1964, the Government accorded approval with effect from 08.10.2003 whereunder better benefits were provided to medically unfit drivers, who are permitted to retire or made to retire on medical grounds. The amended regulation was notified for implementation, with effect from 08.10.2003, *vide* notification of even date. However, certain drivers filed writ petitions before this Court for payment of enhanced monetary benefits on medical retirement as per the notification, dated 08.10.2003. This Court directed the Corporation to pay enhanced monetary benefits after obtaining sanction of the Government for proposed amendment. Therefore, instructions were issued *vide* Circular, dated 23.11.2004, advising the officers concerned to arrange payment of additional monetary benefits to the employees retired on medical grounds as per pre amended regulation 6 A(5) of the Regulations, 1964, as existing prior to the notification, dated 08.10.2003. However, the Government accorded approval for amending the regulation with effect from 08.10.2003. Therefore, all the unit officers concerned were advised to implement the amended regulation with effect from 08.10.2003 for those drivers who retired or who were made to retire on medical grounds and opted for revised additional monetary benefit in lieu of alternative employment. Having regard to the above referred contents of the Circular, dated 26.08.2005, it is now

necessary to specifically refer to paragraph 8 of the Circular, which reads as under: 'However, in the cases of Drivers who were already retired on medical grounds prior to the issue of instructions at the reference 3rd cited and where the final orders were already given, such cases need not be reopened for directing them to APSRTC Hospital, Tarnaka and revised Addl. Monetary Benefits may be arranged duly deducting the amounts already paid in terms of circular 4th cited, if any.' This paragraph reflects, nonetheless, that the cases of drivers who were already retired on medical grounds prior to issue of instructions under Office letter dated 10.11.2003 and where final orders were already given, such cases need not be reopened for directing them to APSRTC Hospital, Tarnaka, and revised additional monetary benefits may be arranged duly deducting the amounts already paid in terms of Circular, dated 23.11.2004. Thus, a plain reading of the Circular shows that the amended regulation which was approved with effect from 08.10.2003 was given effect to and was implemented from 08.10.2003 onwards.

8. The petitioner could not bring to the notice of this Court any instances wherein the revised additional benefits or better benefits provided under the amended regulation were extended to any driver who retired on medical grounds prior to 08.10.2003 and who opted for monetary benefits in lieu of alternative employment. In the case on hand, as already noted, the petitioner retired from service on 29.04.2003, that is, prior to the resolution of the Board, dated 28.07.2003, according approval for amendment of the regulation 6 A(5) of the Regulations, 1964, and the approval accorded by the Government, *vide* Principal Secretary's letter dated 24.06.2005, for amending the regulation with effect from 08.10.2003.

9. Viewed thus, this Court finds that the claim of the petitioner that he is entitled to revised additional monetary benefits as per amended regulation pursuant to the Circular, dated 26.08.2005, needs no countenance being devoid of merit.

10. The Writ Petition is, accordingly, dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

20.03.2017
Vjl

