



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P.(MD) No.7787 of 2015

P.Periyasamy

... Petitioner

vs.

1.The Chief Engineer
(Highways and Rural Works)
Chepauk, Chennai-600 005

2.The Superintending Engineer
(Highways and Rural Works)
Tirunelveli

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records of the 1st respondent in Pre.No.8403 4/N4/75 dated 11.02.1994 and quash the same and consequently direct the respondents to consider the petitioners representation dated 30.03.2015 regarding to treat his resignation as voluntary retirement and to disburse all other attendant benefits including the pensionary benefits for the period commencing from 08.08.1959 to 11.02.1994 to the petitioner immediately.

[Prayer amended vide Court order dated 07.02.2019 in W.M.P.(MD) No.5040 of 2018]

For Petitioner : Mr.S.Sathish Kumar

For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to quash the order of acceptance of resignation dated 11.02.1994, passed by the first respondent and to direct the respondents to consider the representation submitted by the writ petitioner on 30.03.2015 to treat the letter of resignation as voluntary retirement and to disburse all the attendant benefits.



2. The writ petitioner was appointed as R.W.S.Overseer on 08.08.1959. He was promoted as M.I.Overseer with effect from 19.03.1960 and thereafter, promoted to the post of Union Engineer with effect from 31.03.1972. While the writ petitioner was working as Union Engineer, at Alwarthirunagari Union, due to personal reasons, he resigned his job on 09.11.1974. The writ petitioner offered his letter of resignation and remained absent from duty. The writ petitioner submitted the letter of resignation and thereafter, not attended the duty. The very conduct of the writ petitioner in this regard is in violation of the service rules in force.

3. An employee on submitting a letter of resignation is bound to wait till the letter of resignation is accepted or rejected by the authority competent with reference to the rules in force. In the event of not passing any orders by the authority competent, the deemed clause will come into force and accordingly, the resignation submitted is deemed to have been accepted for all purposes on expiry of the period of notice of three months. This being the procedures to be followed, the writ petitioner, after submitting his resignation letter, left his job.

4. The learned counsel appearing for the writ petitioner states that the authority competent had not passed any orders within the time limit of three months. The writ petitioner also had not approached the authority competent and only during the year 1994, after a lapse of 20 years from the date of submission of resignation letter, he approached the first respondent by way of a representation, dated 24.09.1993 and an order dated 11.02.1994 was passed by the first respondent accepting the resignation of the writ petitioner with effect from 09.11.1974.

5. The learned counsel for the writ petitioner further states that the retrospective acceptance of resignation letter is impermissible. Further, the writ petitioner had already served for more than ten years and therefore, he is entitled for the benefits as applicable.

6. The learned Additional Government Pleader appearing for the respondents opposed the above contentions by stating that the resignation letter submitted by the writ petitioner was of the year 1974. The writ petitioner left the job and remained unauthorizedly absent. Therefore, the circumstances are doubtful whether any order of acceptance during the relevant point of time was passed or not. Under these circumstances, writ petitioner approached the first respondent during the year 1993 and based on the representation, another order was passed accepting the letter of resignation. This being the factum, now, after a lapse of so many years, the present writ petition cannot be considered at all.



7. The fact remains that the writ petitioner admittedly submitted his letter of resignation on 09.11.1974. Admittedly, the writ petitioner has left the job and remained unauthorizedly absent. Admittedly, the writ petitioner submitted a representation in the year 1993 and based on the representation, an order was passed by the first respondent on 11.02.1994 accepting the letter of resignation with effect from 09.11.1974. Even after passing of the order on 11.02.1994, the present writ petition is filed during the year 2015, after a lapse of 21 years from the date of the impugned order. The writ petition filed after a lapse of 21 years from the date of passing of the impugned order can never be entertained and is to be dismissed on the ground of laches.

8. Even as per the service rules in force, in the event of not passing any orders by the competent authority, the letter of resignation submitted by an employee is deemed to have been accepted on expiry of the period of notice. This being the real position, the writ petition now filed after a lapse of many years from the date of submission of the resignation letter cannot be considered at all. If at all any claim is to be made with reference to the services rendered as per the rules in force, the authority competent is at liberty to consider the same, subject to the condition that the service records are available and the writ petitioner is also able to establish his services with the Department. In the absence of any such records, no relief can be granted to the writ petitioner.

9. With these observations, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (Record)

// True Copy //

Sub Assistant Registrar (CS)

krk

To:

1. The Chief Engineer, (Highways and Rural Works),
Chepauk, Chennai-600 005.
 2. The Superintending Engineer, (Highways and Rural Works),
Tirunelveli.
- +1cc to Mr.H.Arumugam, Advocate, SR.No.75395
+1cc to the Spl.Govt.pleader Sr.No.75759

W.P. (MD) No.7787 of 2015
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