

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.M.P.No.5478 of 2020
and W.A.SR.No.127528 of 2019

S.John Peter

.. Petitioner

Vs

1. The State of Tamil Nadu
rep. by its Secretary
Fort St. George
Chennai – 600 009.

2. The Director of Secondary School Education
DPI Complex, College Road
Chennai – 600 006.

3. The Accountant General
Accountant General Office
Teynampet
Chennai – 600 018.

4. The Correspondent
St. Joseph Higher Secondary School
Choolai, Chennai – 600 112.

.. Respondents

PRAYER in C.M.P.No.5478 of 2020: Petition under Order IV Rule 9(4) of the Appellate Side Rules to condone the delay of 92 days in representing the appeal.

Prayer in Appeal: Appeal under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 26.6.2019 in W.P.No.162 of 2012.

For Appellant/
Petitioner

: Mr.A.R.Nixon

For Respondents

: Mr.V.Jayaprakash Narayanan
State Government Pleader
for 1st respondent

Mr.C.Munusamy
Special Government Pleader
for 2nd respondent

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The appellant was a P.G. Assistant in St.Joseph Girls Higher Secondary School and after having worked for 16 years, he tendered his resignation on 6.7.2000.

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2. The appellant filed a writ petition that has given rise to this appeal seeking a declaration that he was entitled for pension, in as

much as he had resigned on account of his chronic health condition and as such he was entitled to the benefit of pension under the relevant Rules.

3. The learned Single Judge, after having traversed the Rules that were cited, as also the judgments, came to the conclusion that the appellant on resignation did not have any entitlement for pension.

4. Learned counsel for the appellant assailing the same relied on the judgment of the Apex Court in the case of *M/s J.K. Cotton Spinning & Weaving Mills Company Ltd. v. State of U.P. and others*, AIR 1990 SC 1808 : (1990) 4 SCC 27 to urge that resignation is only a simple voluntary cessation of service on completion of certain years having been put in, which does not entail any disqualification for the employee to receive pension.

5. We have perused and considered the ratio of the said judgment, which was a case relating to resignation *vis-a-vis* retrenchment arising out of labour dispute, that has absolutely no connection with the issue raised herein.

6. The Government Order dated 5.1.1983, being G.O.Ms.No.37, also does not come to the aid of the appellant, in as much as the same refers to certain relaxations having been granted by the Government in relation to persons who could not have foreseen the institution of the pension scheme when they had resigned. The aforesaid Government Order does not, in any way, apply to the appellant, in as much as the services of the appellant are clearly governed by the Rules that have been referred to and quoted in the impugned judgment, and it is only on discharge of service due to invalidation on medical grounds that pension is admissible. In the instant case, the appellant was not discharged by the employer on account of any invalidation on medical grounds. As a matter of fact, the appellant voluntarily resigned stating that he was not keeping good health conditions. This does not amount to invalidation on medical grounds, on the basis whereof he was discharged from service by the employer.

7. To the contrary, Rule 23 of the Tamil Nadu Pension Rules categorically states about the forfeiture of service on resignation. The said Rule has been extracted by the learned Single Judge and having

perused the same, we do not find any reason to draw a different conclusion from that of the learned Single Judge.

8. It may also be appropriate to refer to the Division bench judgment dated 27.3.2019 in W.A.No.1793 of 2018 [*Poornima v. The Secretary to the Government of Tamil Nadu and others*], where the applicability and impact of Rule 23 of the aforesaid Rules was considered and it was held that pension cannot be claimed after resignation in terms of the said Rule.

In the result, the appeal SR fails and the same is dismissed.
C.M.P.No.5478 of 2020 is also dismissed.

(A.P.S., CJ.)

(S.K.R., J.)

20.07.2020

Index : Yes
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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

(sasi)



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