



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.159 of 2021 and

WMP(MD) Nos.136 & 137 of 2021

WEB COPY

R.Jeyakumar

....Petitioner

Vs

1.The Superintending Engineer,
TANGEDCO,
Madurai.

2.The Executive Engineer,
TANGEDCO,
Samayanallur,
Madurai - 625 402.

3.The Secretary,
Regional Medical Board,
Government Rajaji Hospital,
Goripalayam,
Madurai - 20.

4.The Chairman & CE (Personnel),
TANGEDCO,
Chennai.

...Respondents

(The fourth respondent is *suo motu* impleaded in this Writ Petition, as per order of this Court dated 04.02.2021)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the first respondent, dated 05.05.2020, and the consequential impugned order dated 05.05.2020 and quash the same and direct the respondents to relieve the petitioner on Voluntary Retirement on medical grounds and consequentially direct the second respondent to send the petitioner's case to the third respondent for medical opinion.

For Petitioner : Ms.Porkodi Karnan for
M/s.Polax Legal Solutions

For R1 & R2 : Mr.T.Sakthikumaran

For R3 : Mr.M.Muniyasamy,
Additional Government Pleader



O R D E R

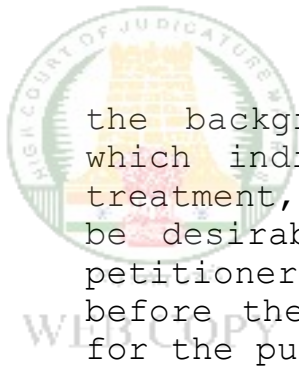
The petitioner herein, who was employed as Accounts Supervisor in the respondent Company had tendered his voluntary retirement, which was accepted on 05.05.2020 by the respondent herein. According to the petitioner, he was constrained to take voluntary retirement on medical grounds, since he was diagnosed with cancer in his tongue. The respondents, however, had permitted the petitioner to go on voluntary retirement, but had rejected the retirement to be on medical grounds. Aggrieved against the same, the present Writ Petition has been filed.

2.The learned counsel for the petitioner relied upon the medical certificate and hospital records issued by the private Hospital, namely, Guru Hospital, wherein he had undergone treatment for cancer. It is their case that in view of the cancer, his tongue has been removed through a surgery and has been undergoing chemotherapy treatment. Therefore, he was constrained to tender his retirement voluntarily on medical grounds, by relying upon the medical reports.The learned counsel submitted that there was no justification on the part of the respondent to have rejected the petitioner's claim to have retired on medical grounds.

3. The learned Standing Counsel, however, would rely upon the report dated 20.08.2019 of the Regional Medical Board attached to the Government Rajaji Hospital, Madurai, which certifies that the petitioner did not have active cancer. He further would submit that since the first respondent herein had already accepted the voluntary retirement based on the medical board's report, the same cannot be reviewed.

4.It is seen that among the medical reports submitted by the petitioner herein, the latest of the medical report dated 02.10.2019, which reveals that the petitioner is undergoing chemotherapy treatment and which also indicates about the surgery conducted on the petitioner. The voluntary retirement came to be accepted on 05.05.2020. The proximity between the treatment of cancer undergone by the petitioner as well as the voluntary retirement is very close and there is every possibility that the petitioner could have tendered his voluntary retirement on medical grounds. Nevertheless, in view of the Medical Board's report, the first respondent seems to have taken a decision to permit the petitioner to voluntarily retire.

5.In these circumstances, it would be appropriate for reconsideration of the purpose for which the petitioner had voluntarily retired, since the first respondent had already accepted the voluntary retirement of the petitioner. Such exercise of reviewing the order could be done by a superior authority in



the background of the diagnosis test report dated 02.10.2019, which indicates that the petitioner is undergoing chemotherapy treatment, which apparently is for treatment of cancer. It would be desirable that when such superior authority reconsiders the petitioner's request, the petitioner can be subjected for review before the Regional Medical Board of Government Rajaji Hospital, for the purpose of coming to a conclusion.

6. In the light of the above observations made, the petitioner is granted liberty to file an appeal before the Chairman & CE (Personnel), Chennai to ventilate his grievance and on receipt of such appeal, the Chairman & CE (Personnel), Chennai shall reconsider the petitioner's request and if necessary, refer the petitioner to the Regional Medical Board, Government Rajaji Hospital for examination and determination of the medical condition of the petitioner. The Chairman & CE (Personnel), Chennai shall endeavour to take a final call on the petitioner's request, atleast within a period of two weeks from the date of a receipt of the medical report from the Regional Medical Board, Government Rajaji Hospital, Madurai.

7. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Superintending Engineer,
TANGEDCO,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Executive Engineer,
TANGEDCO,
Samayanallur,
Madurai - 625 402.

3.The Secretary,
Regional Medical Board,
Government Rajaji Hospital,
Goripalayam,
Madurai - 20.

4.The Chairman & CE (Personnel),
TANGEDCO,
Chennai.

Copy to

The Regional Medical Board,
Government Rajaji Hospital,
Madurai.

+1 CC to Mr.T.SAKTHI KUMARAN, Advocate (SR-3606[F] dated
05/02/2021)

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-3848[F] dated
08/02/2021)

Order made in
W.P. (MD) No.159 of 2021 and
WMP(MD) Nos.136 & 137 of 2021
04.02.2021

KM (03.03.2021) 4P 8C