



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL**

W.A(MD)No.1103 of 2012

D.R.Premkumari ... Petitioner/Appellant

Vs.

1.The Director,
The Directorate Forensic Science Department,
Chennai-04.

2.The Assistant Director,
Regional Forensic Science Laboratory,
Madurai.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court, dated 03.10.2012 made in W.P(MD)No.618 of 2012.

Prayer in WP(MD). 618/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus by directing the respondents to sanction pension and other retirement benefits to the petitioner.

For Appellant : Mr.K.Samidurai

For Respondents : Mr.K.P.Narayanakumar,
Special Government Pleader

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA,J.)**

This Writ Appeal is directed against the order dated 03.10.2012 made in W.P(MD)No.618 of 2012.

2. The writ appellant is the writ petitioner, who had sought for a Mandamus directing the respondents to sanction pension and other retirement benefits to him, which was rejected by the learned Single Judge.

3. The appellant was appointed as Junior Grade Laboratory Servant in the year 1981 in the first respondent Department and after putting in the service of 11 years and 8 months, he resigned on



12.07.1993, due to his health conditions and family circumstances. Thereafter, he sent a representation on 03.05.2001 to the respondents seeking grant of pension and other benefits. On 11.06.2001, the first respondent informed his inability to grant pension as per the Tamil Nadu Pension Rules. Once again in 2009, the appellant had made an attempt, which was also rejected by the first respondent on 19.02.2009. According to the appellant, as per Rule 23(1) of the Tamil Nadu Pension Rules, resignation shall not entail for forfeiture of past service.

4. The learned Single Judge, who heard the matter after quoting Rule 23 of the Pension Rules, followed the judgment of the Honourable Supreme Court in **Union of India and Others v. Brajnandan Singh** reported in **(2005) 8 SCC 325** and dismissed the writ petition holding that a person, who resigned from service on medical ground or for another reason, cannot be treated on par with those employees, who resigned to join other services.

5. It is also categorically held that Rule 23 of the Tamil Nadu Pension Rules envisages that resignation results in forfeiture of service which disentitles the Government employee to pension.

6. The aggrieved appellant once again reiterates that he is entitled for pension. As mentioned above, the appellant resigned in the year 1993 and the writ petition is filed in the year 2012 after twenty years. First of all, the writ petition is rightly dismissed on the ground of delay and laches. Even otherwise, it has to be seen that whether the appellant is entitled for the pensionary benefits when he had voluntarily resigned on medical grounds and also family circumstances.

7. The Division Bench of this Court in **R.Balameenva v. Chief Engineer/Personnel Tamil Nadu Generation and Distribution Corporation Limited and Another** reported in **2020 SCC online Mad 8816**, has held as follows:

"8. The learned Judge in paragraph 6 of the impugned order has extracted Rule 23 of the Tamil Nadu Pension Rules, which speaks about the forfeiture of service on resignation and as to the interpretation of the said Rule, he has also placed reliance upon a judgment rendered by a Division Bench of this Court reported in (2016) 2 LLN 254 [A.I. Agnal Ilangovan v. The Government of Tamil Nadu]. Since the said rule is very clear as to the forfeiture of service on resignation, there cannot be any positive order of direction, directing the respondents to violate the statutory rules.

9. Though this Court sympathizes with the appellant/writ



benefits, such as pension and gratuity due to her resignation, since the rule, in this regard, is very clear, it is unable to come to the aid of the appellant/writ petitioner."

8. In *S. John Peter v. State of Tamil Nadu*, rep. by its Secretary and Others reported in 2020 SCC Online Mad 1471, a Division Bench of this Court has held as follows:

"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.....

4. Learned counsel for the appellant assailing the same relied on the judgment of the Apex Court in the case of *J.K. Cotton Spinning & Weaving Mills Company Ltd. v. State of U.P.*, (1990) 4 SCC 27 :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], 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."

9. In view of the above settled position, the appellant is not entitled to the pensionary benefits and the rejection of his writ petition is correct and does not warrant any interference.

10. In the result, the order of the learned Single Judge dated dated 03.10.2012 made in W.P(MD)No.618 of 2012, is confirmed and the Writ Appeal is dismissed. No Costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Director,The Directorate Forensic Science Department,
Chennai-04.

2.The Assistant Director,Regional Forensic Science Laboratory,
Madurai.

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-13968[F] dated 26/03/2021)

+1 CC to M/s.SPL GP (SR-14091[F] dated 29/03/2021)

W.A(MD)No.1103 of 2012

26.03.2021

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