



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD)No.4265 of 2019

and W.M.P. (MD)No.3379 of 2019

WEB COPY

K.Paulchinnaparaj

... Petitioner

Vs.

1.The District collector,
District Collector Office, Virudhunagar District.

2.The Tahsildar,
Srivilliputtur Taluk,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent bearing No.Na.Ka.A3/1769/2017 dated 29.11.2018 and quash the same and subsequently direct the 1st respondent to permit the petitioner to retire on medical invalidation on the basis of certificate issued by Medical Board dated 06.03.2017 and also direct the first respondent to provide compassionate appointment to the son of the petitioner as per G.O.Ms.No.168 Labour and Employment dated 19.10.2000.

For Petitioner : Mr.M.Gnanagurunathan
For Respondents : Mr.A.K.Manickam,
Standing Counsel for Govt.

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 29.11.2018 and to direct the first respondent to permit the petitioner to retire on medical invalidation on the basis of the certificate issued by Medical Board dated 06.03.2017 and also to provide compassionate appointment to the son of the petitioner as per G.O.Ms.No.168 Labour and Employment dated 19.10.2000.

2. The case of the petitioner is that he has been working as Office Assistant from the year 1982 and he was suffered from rheumatoid Arthritis. Therefore, he has taken treatment in the hospital and based on the medical advise, he has submitted an application seeking permission to retire on medical invalidation and also sought for compassionate appointment to his elder son Arokiyaraj. According to the petitioner, he appeared before the Medical Board, as directed by the respondents and the Medical Board has given a report that the petitioner is medically unfit for



service. Without considering the said Medical report, the first respondent has passed the impugned order, by rejecting the request of the petitioner on the ground that the application for retirement on medical invalidation and for compassionate appointment should be submitted within 53 years, but the petitioner's has submitted his application after 53 years and 6 months. Challenging the same, the present Writ Petition has been filed.

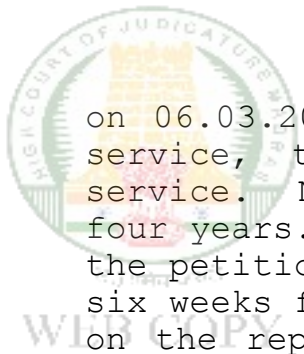
3. The learned counsel appearing for the petitioner submitted that by considering the report of the Medical Board dated 06.03.2017, the respondents have not allowed the petitioner to retire from service on the ground of medical invalidation. But, on the contrary, the petitioner was compelled to continue in the said service by the respondents. He further submitted that the petitioner has been working as Office Assistant and therefore, he will attain the age of superannuation only in 60 years and not in 58 years and hence, as per the Government Order, the petitioner is having left over service of 5 years. Therefore, the impugned order is liable to be quashed.

4. The first respondent has filed the counter affidavit and based on the counter affidavit, the learned Standing Counsel for Government appearing for the respondents submitted that as per G.O.Ms.No.168, Labour and Employment (Q1) Department, dated 19.10.2000, the Government have extended the restriction of age of the employees on medical invalidation from 50 years to 53 years for providing employment assistance to their dependents. However, the petitioner has already reached the age of 53 years. Therefore, in the light of the Government Order, the impugned order is perfectly in order and it does not call for any interference.

5. I have anxiously considered the rival submissions and perused the materials placed on record.

6. On a perusal of the records, it is seen that the the petitioner has submitted the application seeking permission to retire on medical invalidation and also for compassionate appointment for his son, after 53 years and 6 months. In respect of the second relief, viz., seeking for compassionate appointment, this Court is of the view that as per the Government Order, the application for seeking compassionate appointment should be submitted within 53 years. However, the petitioner has submitted the application for compassionate appointment to his son, after crossed the maximum age limit of 53 years. Hence, the aforesaid relief of seeking compassionate appointment cannot be granted by this Court.

7. Insofar as another relief is concerned viz., seeking permission to retire on the ground of medical invalidation, this Court is of the view that though the Medical Board has given report



on 06.03.2017, stating that the petitioner was medically unfit for service, the respondents have not allowed him to retire from service. Now the petitioner has continued in service for more than four years. Therefore, this Court directs the respondents by asking the petitioner to appear before the Medical Board within a period of six weeks from the date of receipt of a copy of this order and based on the report, the respondents shall take appropriate decision in accordance with law for relieving the petitioner from service on the ground of medical invalidation. It is made clear that if the Medical Board found that the petitioner is unfit to continue in service, the respondents cannot compel the petitioner to continue in the service, which is contrary to the provisions of rules. The respondents are directed to complete the aforesaid exercise as expeditiously as possible, preferably within a period of twelve weeks thereafter.

8. With the above observations, this Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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 District collector,
District Collector Office, Virudhunagar District.

2.The Tahsildar,
Srivilliputtur Taluk, Virudhunagar District.

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-26677[F] dated 18/08/2021)

+1 CC to M/s.GP (SR-26737[F] dated 19/08/2021)

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