



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.3909 of 2022

W.M.P(MD) .Nos.3365 and 3366 of 2022

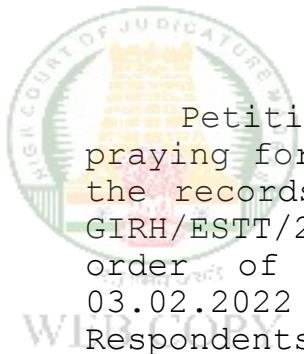
G.Sureshmani

... Petitioner

Vs.

- 1.The Under Secretary,
The Ministry of Family Welfare and Health,
Training Division,
Rep.by its Secretary,
Office, Room No.348,
'A' Wing, Nirman Bhavan,
New Delhi-110011.
- 2.The Secretary to Government,
Department of Health and Family Welfare,
St.George Fort, Chennai.
- 3.The Gandhigram Institute of Rural Health and
Family Welfare Trust,
Rep.by its Chairman,
Soundaram Nagar, Gandhigram Post,
Dindigul District.
- 4.The Director,
The Gandhigram Institute of Rural Health and
Family Welfare Trust,
Rep.by its Chairman,
Soundaram Nagar, Gandhigram Post,
Dindigul District.
- 5.Dr.Seethalakshmi,
The Director,
The Gandhigram Institute of Rural Health and
Family Welfare Trust,
Rep.by its Chairman,
Soundaram Nagar, Gandhigram Post,
Dindigul District.

... Respondents



Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining the impugned order of the 4th Respondent in GIRH/ESTT/2021-22/0652 dated 31.01.2022 and subsequent impugned order of the 4th Respondent in GIRH/ESTT/2021-22/0662 dated 03.02.2022 and quash the same and consequently directing the Respondents to reinstate the petitioner with continuity of service with all benefits.

For Petitioner : Mr.S.Ramsundarvijayaraj
For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader
for R2
Mr.P.Paulpandi for R1
Mr.V.Karthikeyan for
Mr.V.Vijayasankar for RR3 to 5

O R D E R

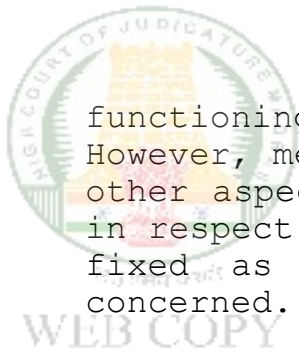
The relieving order dated 31.01.2022 and vacating order issued in proceedings dated 03.02.2022 directing the petitioner to vacate the official quarter are under challenge in the present writ petition.

2. The petitioner was appointed in the third respondent Institution as Machine Borrower on temporary basis. Subsequently, he was appointed as Electrician cum Pump man permanently. The petitioner is working for several years. His pay was upgraded and awarded with selection grade and special grade.

3. The grievance of the petitioner is that the Government of Tamil Nadu enhanced the age of retirement as 60 years from 58 years. The third respondent/Institution is adopting the Government of Tamil Nadu Rules and therefore, the petitioner must be allowed to continue in service till he attains the age of 60 years. Contrary to the said principle, the third respondent relieved the petitioner on attaining the age of 58 years and directed the petitioner to vacate the official quarters. Thus, the petitioner is constrained to move the present writ petition.

4. The main ground raised in the writ petition is that the Government Policy for extension of service period upto 60 years of age must be granted to the petitioner, who is working with the third respondent Institution. It is contended that the Fundamental Rules are adopted. While so, the retirement age is to be granted as per the Government of Tamil Nadu orders.

5. The learned counsel appearing for the third respondent/ Gandhigram Institute of Rural Health and Family Welfare Trust, made a submission that the third respondent is not an Organisation



functioning under the control of the Government of Tamil Nadu. However, mere adopting the Government of Tamil Nadu Service Rules in other aspects would not confer any right on the petitioner to claim in respect of retirement age. The retirement age of the employees is fixed as 58, as far as the third respondent Institution is concerned.

6. It is contended on behalf of the fourth respondent that the third respondent Institution is not a body of Corporation coming under the Government of Tamil Nadu viz., the first respondent herein. The third respondent Institute does not derive or get any funds or grants from the Government of Tamil Nadu. It is an autonomous body having its own service rules which functions under the aegis of the Ministry of Health of Family Welfare, Government of India. It is therefore incorrect on the part of the petitioner to contend that G.O.Ms.No.51, Personnel and Administrative Reforms Department dated 07.05.2020 issued by the Government of Tamil Nadu on 07.05.2020 and G.O.Ms.No.29, Personnel and Administrative Reforms Department, dated 25.02.2021 apply to the third respondent Institution. A very reading of the said Government Order would clearly reveal that it applies to aided Educational Institution and Statutory bodies, Boards, PSUs, Corporation etc., under the Government of Tamil Nadu. Insofar as the third respondent Institution is concerned, it is reiterated that the said Government Order is not applicable as the third respondent Institution does not come under the control or administration of the Government of Tamil Nadu. The very claim made in the writ petition by the petitioner is therefore misconceived and the writ petition is to be rejected.

7. Regarding the Rule position, it is submitted that in the Board of Trustees meeting on 04.01.2003, the Rules regarding age of superannuation were amended as under:-

"Every employee shall retire on attaining the age of 58 (Fifty eight years)" or as fixed by the Government of Tamil Nadu from time to time.

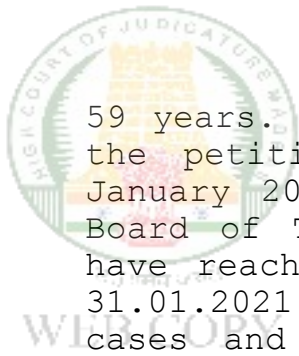
8. Later at the Board of Trustees Meeting on 12.04.2006, the Rules were further amended to read as under:-

"Every employee shall retire on attaining the age of 58 years"".

9. Subsequently, at the Board of Trustees Meeting on 12.02.2014, the Rules were again amended to read as under:-

"Every employee in the superior service shall retire on attaining the age of 58 years. All basic servants shall retire on attaining the age of 60 years".

10. However, the meeting was conducted on 13.11.2020 and the Board of Trustee resolved the enhance age of retirement from 58 to
<https://hcservices.ecourts.gov.in/hcservices/>



59 years. Accordingly, an amendment was issued and the services of the petitioner was extended from January 2021 upto the end of January 2022. If at all this amendment had not been made by the Board of Trustees of the fourth respondent, the petitioner would have reached the age of superannuation at the age of 58 years on 31.01.2021 itself. This amendment was given prospectively to all cases and for all employees in the Institution and the age of retirement is enhanced to 59 years. Accordingly, the petitioner was relieved from service and directed to vacate the official quarters occupied by him.

11. This being the facts and circumstances, the third respondent Institution has already extended one year of service to the petitioner by taking a decision and amending the Rules. The petitioner has already completed 59 years of age and he was relieved from service. Thus, he is bound to vacate the official quarter for the purpose of allowing the other employees who are working and waiting for allotment. Thus, the petitioner is directed to vacate the official quarter and handover the key to the Competent Authorities on or before 31.05.2022.

12. Accordingly, the Writ Petition stands dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

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/ /2022

Sub Assistant Registrar(CS)

ssb

To

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+1 CC to M/s.P. PAUL PANDI, Advocate (SR-19243[F]
dated 19/04/2022)

+1 CC to M/s.V. KARTHIKEYAN, Advocate (SR-19572[F] dated 20/04/2022)

+1 CC to M/s.S. RAMSUNDARVIJAYRAJ, Advocate (SR-19846[F]
dated 20/04/2022)

+1 CC to M/s.SPL.GP. (SR-19738[F] dated 20/04/2022)

W.P. (MD) No.3909 of 2022

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