



W.P.No.13970 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.No.13970 of 2010

S.Munirathinam

...Petitioner

Vs.

1. The Chairman,
Chennai Port Trust,
Chennai – 600 001.

2. The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai – 600 001.

3. The Chief Labour Officer,
Chennai Port Trust,
Rajaji Salai,
Chennai – 600 001.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in W4/12390/2009/GA dated 02.01.2010 passed by the first respondent and quash the same and consequentially direct the respondents to give the Voluntary Retirement Service benefits to the petitioner.



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For Petitioner : Mr.Ezhilarasu
for Mr.M.Sarfudeen

For Respondents : Mr. Krishnaravindran

ORDER

This Writ Petition had been filed seeking direction to call for the records pertaining to the impugned order in W4/12390/2009/GA dated 02.01.2010 passed by the first respondent and quash the same and consequentially direct the respondents to give the Voluntary Retirement Service benefits to the petitioner.

2. Heard Mr.Ezhilarasu, learned counsel for the petitioner and Mr.Krishnaravindran, learned counsel appearing for the respondents.

3. The learned counsel for the petitioner would submit that, petitioner had been employed in the office of the Madras Port Trust Staffs Welfare Club in the year 1973 as Attender and Marker. The said club was closed and in that place, Chennai Port Trust Housing Colony Welfare Committee was established by the respondents and the employees who worked in the said club were absorbed to the said committee. The said committee was under the control and management of the first respondent. During the year 2006, petitioner was affected by



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paralytic attack and he was on medical leave. After he had fully recovered, he had reported to duty with required medical certificate, but he was refused to be given employment. Petitioner therefore prayed for payment of benefits under the Voluntary Retirement Scheme and as no order was passed, petitioner was constrained to approach this Court in W.P.No.16010 of 2009, in which, this Court directed the respondents to pass orders. Pursuant to the said direction, first respondent had rejected the claim of the petitioner contending that petitioner was only engaged as Attender on monthly consolidated payment basis, in the Tondiarpet Housing Colony Welfare Committee which is not under the control of the first respondent and the Voluntary Retirement Scheme is only applicable to the employees of Chennai Port Trust Administrative Officers Canteen and not applicable to any other institution.

4. The learned counsel for the petitioner would submit that, the reasons assigned by them is contrary to the reasons given when petitioner attempted to rejoin duty after recovering from the illness he suffered. He would further submit that, it is not the case of the petitioner that, he was employed in the Tondiarpet Housing Colony Welfare Committee but he is employed at Chennai Port Trust Administrative Officers Canteen, which is under the management of



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the respondents. Therefore, he would seek interference of this Court of the order impugned and direct the respondents to compute payment, which the petitioner is entitled for the benefit under Voluntary Retirement Service.

5. Per contra, the learned counsel appearing for the respondents would submit that, petitioner had been originally dismissed from service in the year 2006. Being aggrieved by the order of dismissal, petitioner had infact filed a writ petition in W.P.No.7430 of 2008 seeking for mandamus directing the respondents to reinstate the petitioner in service and to pay all service benefits. The said Writ Petition had been dismissed for default on 20.08.2008. However, without taking any steps to restore the Writ Petition, petitioner had now improved his case, as if the case of voluntary retirement from service and seeking for benefit under the same. He would further submit that, petitioner had been working only under the Tondiarpet Housing Colony Welfare, which has its own by-laws and it is been managed by the President and Office bearers, who are elected from time to time and not under the control of any of the respondents.



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6. He would further submit that, the Voluntary Retirement Scheme, which the petitioner seeks to be applicable to him, had been only notified for permanent workers at Chennai Port Trust Administrative Offices Canteen and not applicable to any other units of the Port Trust. He further submit that, there is no infirmity in the orders passed by the 1st respondent in W4/12390/2009/GA and seeks for dismissal of this petition.

7. Considered the rival submissions and perused the records. The respondents had categorically contended that the petitioner had been dismissed from service on account of long absentism and that petitioner had also initiated Writ Petition in W.P.No.7430 of 2008 seeking for Mandamus to reinstate him in service. The said Writ Petition had been dismissed for non-prosecution. The said fact is not disputed by the learned counsel petitioner. When that be so, petitioner cannot be heard to say that he had submitted applications for voluntary retirement and that the same had been accepted by respondent as they have refused to take him back to duty after his treatment for his illness on the ground that the applications submitted by him for voluntary retirement had been accepted.



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8. Petitioner seems to have been dismissed from service by Tondiarpet Housing Colony Welfare committee which had employed him and he had not diligently challenged the same. On the contrary, he seems to have filed a Writ Petition for mandamus to reinstate him into service. Therefore, petitioner cannot seek to claim that he had been voluntarily retired from service and that he would be entitled for benefit under Voluntary Retirement Scheme. In point, Writ Petition is without merits and it is liable to be dismissed.

9. Accordingly, Writ Petition is dismissed. No costs.

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Index :Yes/No
Internet :Yes/No
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To

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K.KUMARESH BABU, J.

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