



W.P.No.7951 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	03.01.2023
PRONOUNCED ON :	12 .04.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

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G.Kannan

... Petitioner

Vs.

Indian Institute of Technology,
Represented by the Chairman,
Board of Governors,
IIT- Madras,
Chennai 600 036

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent contained in letter dated 25.03.2015 issued by the Dean, IIT Madras, quash the same and consequently direct the respondent to treat the petitioner as a person voluntarily retired after having completed more than twenty years of combined qualifying service and hence, grant all consequential pensionary and gratuity benefits due to the petitioner.

** Prayer amended as per order dated 17.08.2017 vide M.P.No.1 of 2015.*



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For Petitioner : Mr.V.P.Raman

For Respondent : Mr.Menon Karthik

ORDER

This writ petition is filed seeking to quash the letter dated 25.03.2015 issued by the Deputy Registrar (Admn.) IIT Madras, whereby, the petitioner's request for considering voluntary retirement has been rejected. The petitioner seeks for a direction to the respondent to treat him as a person as voluntarily retired, after having completed more than twenty years of combined qualifying service, and to grant all consequential pensionary and gratuity benefits due to the petitioner.

2. It is averred in the writ petition that the petitioner was employed as Programmer Grade-I in the Department of Computer Science and Engineering of the Indian Institution of Technology, Madras (*hereinafter referred to as, "IIT"*). In order to take up an assignment in a teaching consulting capacity with M/s.Data Software Research Co. Ltd. at New Zealand, the petitioner had applied for leave for a period of two years with effect from 17.06.1985.



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3. Considering the petitioner's request, the respondent agreed to grant leave Ex-India, Ex-ordinary leave (without pay and allowance) for a period of one year with effect from 17.06.1985 to 16.06.1986, on condition that no extension of the said leave shall be allowed, unless prior request made by the petitioner to extend the leave is accepted by the respondent.

4. It is submitted that while granting leave to the petitioner, the respondent has also stated that if the petitioner fails to return to duty, on the expiry of the aforesaid leave, then, the petitioner shall be deemed to have resigned from his post at the Institute, unless he opts to retire under the Scheme of retirement, in vogue, in the Institute. Pertaining to the same, an undertaking was signed by the petitioner on 10.06.1985.

5. The petitioner's submission is that the petitioner was relieved from his duties on the afternoon of 14.06.1985. On 04.07.1986, the petitioner had sent a letter to the Director, IIT Madras, seeking for extension of the previously sanctioned period of one year leave to two years. The Deputy



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Registrar accepted the petitioner's request and issued a letter dated 06.08.1986, granting extension of leave, subject to the execution of fresh undertaking by the petitioner.

6.The petitioner executed the undertaking on 13.08.1986 and he was granted leave for two years with effect from 17.06.1985 to 16.06.1987 on the basis of the afore-stated conditions.

7. While so, the Deputy Registrar by letter dated 29.06.1987stated that the petitioner will be deemed to have resigned from his post, as he did not rejoin on expiry of the sanctioned period of 2 years leave.

8. On 01.07.1987, the petitioner sought for voluntary retirement. In response to the same, an official order, dated 03.09.1987 was issued by the respondent stating that the petitioner was deemed to have resigned from his post in accordance with the earlier undertaking signed by him.

9. The learned counsel for the petitioner would submit that earlier the



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petitioner worked at PSG Polytechnic, Coimbatore from 25.06.1964 to 10.07.1965; as Junior Instructor from 18.08.1965 to 15.05.1971 and thereafter, he was permanently absorbed in IIT, Madras. As per G.O.Ms.No.470, dated 22.07.1982, there was an ongoing correspondence between IIT, Madras and the Directorate of Technical Education, Chennai under the Tamil Nadu Government, since 1983, regarding combining the services rendered by the petitioner at IIT, Madras and Department of Technical Education for the purpose of granting retirement and pensionary benefits on a service-share basis till June 2013. Therefore, the petitioner had appealed to the Chairman, Board of Governors, IIT Madras on 28.11.1987 to reconsider the Board's decision deeming to have resigned on 17.06.1987 and grant voluntary retirement. But the said request was rejected by the respondent vide communication dated 11.02.1988 stating he has not completed 20 years of qualifying service as required under the statute to opt for voluntary retirement.

10. It is also submitted by the learned counsel for the petitioner that the petitioner sought to add his service rendered in the Government Polytechnic,



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Trichy from 18.08.1965 to 15.07.1970 and Tamil Nadu Polytechnic, Madurai from 16.07.1970 to 15.05.1971 for the purpose of pensionary benefits and that the Accountant General, Chennai , computed the proportionate pension liability. But the said request was rejected by the respondent vide communication dated 03.09.2012 stating that the request cannot be acceded as per Rule 48-A of the CCS Pension Rules.

11. The petitioner's submission is that he is entitled to the pensionary benefits as he has completed more than 20 years of combined qualifying service for voluntary retirement. Since his request for voluntary retirement, has been rejected, he has filed the present writ petition for the relief stated as above.

12. Per contra, the learned counsel appearing for the respondent Institution submitted that the writ petition is hit by inordinate delay and laches on the part of the petitioner which does not entitle the petitioner from claiming equitable relief.

13. The learned counsel for the respondent would submit that the cause



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of action, if any, on the part of the petitioner, should have arisen before 20 years, i.e. in 1987, when it was ordered that the petitioner deemed to have resigned. But the request for voluntary retirement is belated one. On the basis of the petitioner's resignation, settlements including GPF got closed in February 1988 itself. His request came to be rejected on 11.02.1988 and there has not been any substantive change in the factual position warranting renewal of his request.

14. The learned counsel for the respondent further submitted that in the 223rd meeting of the Board of Governors (BoG) held on 28.11.2014, the appeal of the petitioner has been put up as item No.2.9 of the Agenda. The Board had identified that there were no grounds to reconsider the petitioner's request for voluntary retirement stating that the petitioner has not fulfilled the statutory requirements for voluntary retirement.

15. The cause of action for the matter arose in the year 1987. On 03.09.1987, the petitioner was deemed to have resigned from service and therefore, there is no subsequent change in the cause of action. This Writ



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Petition has been filed after a period of 28 years, which cannot be entertained as there is no merits in the Writ Petition. The writ petition sans merit due to laches on the part of the petitioner.

16. In view of the above discussions, the writ petition is devoid of merits. Accordingly, this writ petition is dismissed. No costs.

12.04.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes /No
sts/nvsri

To:
The Chairman,
Indian Institute of Technology,
Board of Governors,
IIT- Madras,
Chennai 600 036.



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J.NISHA BANU, J.,

sts/nvsri

Pre-Delivery of Order made in
W.P.No.7951 of 2015

Dated:
12.04.2023