



W.P.(MD)No.6010 of 2018

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6010 of 2018

W.M.P(MD).Nos.5879 and 5880 of 2018

A.Satharkhan

... Petitioner

Vs.

1.The Board of Directors and Administrative Ministry,
Rep.by its Managing Director,
BHEL Corporate Office,
BHEL House,
Siri Fort,
New Delhi-110 049.

2.The General Manager (HR-Policy I, NIC & TMX),
BHEL Corporate Office,
BHEL House,
Siri Fort,
New Delhi-110 049.

3.The General Manager,
Human Resource Management (HRM),
24 Building, Main Office,
BHEL,
Tiruchirappalli-620 014.

... Respondents



W.P.(MD)No.6010 of 2018

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in proceedings in Corporate HR Circular No. 011/WLX/2016 dated 18.06.2016 insofar clause 4.8 of BHEL Employees Pension Scheme in respect of severance of service by the employee on account of resignation will not be eligible for pension under the scheme and quash the same and consequently direct the respondents herein to sanction pension to the petitioner with medical benefits and EPF pension with interest.

For Petitioner : Mr.K.Hemakarthiskeyan

For Respondents : Mr.Raguvaran Gopalan
for R1 and R2
No-appearance for R3

ORDER

This Writ Petition has been filed to call for the records pertaining to the proceedings in Corporate HR Circular No.011/WLX/2016 dated 18.06.2016, issued by the second respondent insofar clause 4.8 of BHEL Employees Pension Scheme in respect of severance of service by the employee on account of resignation will not be eligible for pension under the scheme, quash the same and direct the respondents herein to sanction the pension to the petitioner with medical benefits and EPF pension with



W.P.(MD)No.6010 of 2018

interest.
WEB COPY

2. The case of the petitioner is that initially, the petitioner was appointed as Fitter Grade IV in Bharat Heavy Electricals Limited (BHEL), Tiruchirappalli on 02.09.1983 and he was given promotion as Supervisor/Senior Assistant on 08.12.2008. Subsequently, he was selected by the Departmental Selection Committee for the post of Senior Assistant Grade II/Canteen by the proceedings of the third respondent dated 08.06.2009. Thereafter, he was promoted as Senior Assistant Grade I/Canteen on 24.06.2012 and he was posted in Canteen/Unit II. While so, the petitioner met with an accident in the year 2011. He was suffered with multiple injuries. His left leg was cracked down and he underwent ortho surgery in his left leg and two screws were inserted in his left leg. Due to the above problems, the petitioner has orally requested the third respondent to give voluntarily retirement on medical ground so that he will get the pension benefits. But, the third respondent herein has informed that they will accept only heart bye pass surgery and other diseases and has not accepted the request of the petitioner. Hence,



W.P.(MD)No.6010 of 2018

he has tendered his resignation letter to the third respondent on 24.10.2016 and he was relieved from service on 24.11.2016. After his retirement, he was given Provident Fund and Gratuity amounts and also other benefits except P.F Pension, BHEL Pension and Medical benefit. Hence, the petitioner has sent a representation on 15.02.2017 to the third respondent. After receipt of the petitioner's representation, the third respondent has intimated that the resigned employees are not eligible for pension as per clause 4.8 of the BHEL Employees Pension Scheme. Therefore, the petitioner has filed the present writ petition challenging clause 4.8 of BHEL Employees Pension Scheme.

3. The learned counsel appearing for the petitioner would submit that though the petitioner was well aware of the said Pension Scheme prior to his resignation, the third respondent has forced the petitioner to opt for resignation and thereby, the petitioner submitted the resignation letter and the petitioner has rendered 33 years of service in BHEL. Citing the said clause 4.8 of BHEL Employees Pension Scheme, refusal of pensionary benefits to the petitioner is not sustainable one. Hence, he



W.P.(MD)No.6010 of 2018

prays for passing appropriate orders.

WEB COPY

4. Per contra, the learned counsel appearing for the respondents 1 and 2 would submit that the retired employees are entitled for pension under the BHEL Employees Pension Scheme, but the resigned employees are not entitled for pension as per the clause 4.8 of BHEL Employees Pension Scheme. Hence, the petitioner was not granted the pensionary benefits.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

6. The facts in the present case are not in dispute. Admittedly, the petitioner, on his own option, has submitted the resignation letter to the third respondent on 24.10.2016 and the same was accepted by the third respondent. The grievance of the petitioner is that the petitioner was denied the pensionary benefits citing the said clause 4.8 of BHEL Employees Pension Scheme. It is an undisputed fact that while he was in



W.P.(MD)No.6010 of 2018

WEB COPY

service, he was well aware of the said clause 4.8 of BHEL Employees Pension Scheme and thereafter, he has submitted his resignation letter in the year 2016. A perusal of the said clause 4.8 of BHEL Employees Pension Scheme reveals that *“severance of service by the employee on account of resignation, termination, compulsory retirement as a penalty, dismissal / removal because of disciplinary proceedings, will not be eligible under the Scheme. Cases of voluntary retirement under specific VRSNSS scheme, would be examined separately. However, cases of employees availing Voluntary (premature) retirement if otherwise eligible for pension, will be covered under BHEL Employees' Pension Scheme”*.

7. In view of the above clause 4.8 of the BHEL Employees Pension Scheme, the petitioner is not entitled for pension. Further, after a lapse of two years, the petitioner has filed the present writ petition challenging the said clause 4.8 of BHEL Employees Pension Scheme, which is not sustainable one, since he was well aware of the said clause 4.8 of BHEL Employees Pension Scheme, during the time of giving his resignation



W.P.(MD)No.6010 of 2018

WEB COPY

letter. Hence, the prayer sought for in the present writ petition by the petitioner cannot be granted by this Court.

8. Accordingly, this Writ Petition is dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

10.02.2023

ssb
NCC:Yes/No
Index:Yes/No
Internet:Yes/No

To:

1.The Board of Directors and Administrative Ministry,
Rep.by its Managing Director,
BHEL Corporate Office,
BHEL House,
Siri Fort,
New Delhi-110 049.

2.The General Manager (HR-Policy I, NIC & TMX),
BHEL Corporate Office,
BHEL House,
Siri Fort,
New Delhi-110 049.



W.P.(MD)No.6010 of 2018

3. The General Manager,
Human Resource Management (HRM),
24 Building, Main Office,
BHEL,
Tiruchirappalli-620 014.



WEB COPY



W.P.(MD)No.6010 of 2018

M.DHANDAPANI,J.

ssb

W.P.(MD)No.6010 of 2018

10.02.2023