



W.P.No.30144 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.30144 of 2012

C.Palaniappan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by the Principal Secretary to the Government,
Home (Police) Department,
Fort St.George, Chennai-600 009.

2.The Director General of Police,
Chennai – 600 004.

3.The Superintendent of Police,
Coimbatore – 641 018.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the third respondent in Na.Ka.No.4416/H-1/2011 dated 26.05.2011 and quash the same and direct the respondents to sanction pension to the petitioner and grant him all consequential benefits including payment of arrears with interest.

For Petitioner : Mr.P.Rajemdran

For Respondents 1 to 3 : Mr.M.Murali,



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Government Advocate

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ORDER

The petitioner has filed this writ petition to call for the records relating to the impugned order of the third respondent in Na.Ka.No.4416/H-1/2011 dated 26.05.2011 and quash the same and direct the respondents to sanction pension to the petitioner and grant him all consequential benefits including payment of arrears with interest.

2. Learned counsel for the petitioner submitted that the petitioner was initially appointed as Police Constable on 10.08.1962 and he was posted at various districts. While he was working in Erode District, his wife was suffered with stroke (paralysis) and in order to take care of her, the petitioner has applied for one year leave on loss of pay. However, the same was refused. Hence, the petitioner has resigned his job and the same was accepted on 10.04.1975. At the time of acceptance of his resignation, he has put in 12 years of service. Despite repeated request, pension was not given to the petitioner. Hence, he sent a representation to the third respondent, which



was rejected on the ground that there was no provision for granting pension if an individual resigns from Government Service. Aggrieved over the same, the petitioner has come forward with the present writ petition.

3. When the matter was taken up for hearing, learned counsel appearing for the respondent submitted that in a similar case, the Division Bench of this Court in W.A(MD)No.1103 of 2012 has held that the appellant is not entitled for any pensionary benefits, when he had given voluntary resignation on family circumstances. Hence, he prayed this Court to dismiss this writ petition.

4. Heard the learned counsel on either side and perused the materials available on record.

5. The facts of the case is not in dispute. However, the case of the petitioner cannot be entertained for the reason that a person, who resigned the service on medical ground or for another reason, cannot be treated on par with those employees, who resigned to join other services. In order to



substantiate the same, it is pertinent to extract the relevant paragraphs of the judgment passed by the Division Bench of this Court in W.A(MD)No.1103 of 2012 and the same is reads as follows:

“7. The Division Bench of this Court in R.Balameenva v. Chief Engineer/Personnel Tamil Nadu Generation and Distribution Corporation Limited and Another reported in 2020 SCC online Mad 8816, has held as follows:

“8.The learned Judge in paragraph 6 of the impugned order has extracted Rule 23 of the Tamil Nadu Pension Rules, which speaks about the forfeiture of service on resignation and as to the interpretation of the said Rule, he has also placed reliance upon a judgment rendered by a Division Bench of this Court reported in (2016) 2 LLN 254 [A.I. Agnal Ilangovan v.The Government of Tamil Nadu). Since the said rule is very clear as to the forfeiture of service on resignation, there cannot be any positive order of direction, directing the respondents to violate the statutory rules.

9. Though this Court sympathizes with the appellant/writ petitioner as to the non conferment of terminal benefits, such as pension and gratuity due to her resignation, since the rule, in this regard, is very clear, it is unable to come to the aid of the appellant/writ petitioner.”

8. In S.John Peter v. State of Tamil Nadu, rep. by its Secretary and Others reported in 2020 SCC Online Mad 1471, a Division Bench of this Court has held as follows:

“2.The appellant filed a writ petition that has given rise to this appeal seeking a declaration that he was entitled for



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pension, in as much as he had resigned on account of his chronic health condition and as such he was entitled to the benefit of pension under the relevant Rules.....

4.Learned counsel for the appellant assailing the same relied on the judgment of the Apex Court in the case of J.K. Cotton Spinning & Weaving Mills Company Ltd. v.State of U.P., (1990) 4 SCC 27 :AIR 1990 SC 1808 : (1990) 4 SCC 27 to urge that resignation is only a simple voluntary cessation of service on completion of certain years having been put in, which does not entail any disqualification for the employee to receive pension.

5.We have perused and considered the ratio of the said judgment, which was a case relating to resignation vis-a-vis retrenchment arising out of labour dispute, that has absolutely no connection with the issue raised herein.

6. The Government Order dated 5.1.1983, being G.O.Ms. No. 37, also does not come to the aid of the appellant, in as much as the same refers to certain relaxations having been granted by the Government in relation to persons who could not have foreseen the institution of the pension scheme when they had resigned. The aforesaid Government Order does not, in any way, apply to the appellant, in as much as the services of the appellant are clearly governed by the Rules that have been referred to and quoted in the impugned judgment, and it is only on discharge of service due to invalidation on medical grounds that pension is admissible. In the instant case, the appellant was not discharged by the employer on account of any invalidation on medical grounds. As a matter of fact, the appellant voluntarily resigned stating that he was not keeping good health



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conditions. This does not amount to invalidation on medical grounds, on the basis whereof he was discharged from service by the employer.

7. To the contrary, Rule 23 of the Tamil Nadu Pension Rules categorically states about the forfeiture of service on resignation. The said Rule has been extracted by the learned Single Judge and having perused the same, we do not find any reason to draw a different conclusion from that of the learned Single Judge.

8. It may also be appropriate to refer to the Division bench judgment dated 27.3.2019 in W.A. No. 1793 of 2018 [Poornima v.The Secretary to the Government of Tamil Nadu], where the applicability and impact of Rule 23 of the aforesaid Rules was considered and it was held that pension cannot be claimed after resignation in terms of the said Rule.”

6. In view of the above settled position, the petitioner is not entitled to the pensionary benefits and the order passed by the third respondent in Na.Ka.No.4416/H-1/2011 dated 26.05.2011 does not warrant any interference by this Court and the same is hereby confirmed.

7. In the result, this writ petition stands dismissed. No costs.

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

To:

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