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W.P.No.28039 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.28039 of 2014

S.Shamsudeen

... Petitioner

Vs.

1.The Zonal Manager (South),
Food Corporation of India,
Zonal Office (South),
3 - Haddows Road, Chennai - 6.

2.The Senior Regional Manager,
Food Corporation of India,
Regional Office, 124 Greams Road,
Thousand Light, Chennai - 6.

3.The General Manager (TNR),
Food Corporation of India,
Regional Office, 124 Greams Road,
Thousand Light, Chennai - 6.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the files of the respondents pertaining to the impugned order dated 20.06.2011 passed by the 3rd respondent bearing reference



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Lr.No.PP07/14/IR/2010 and quash the same and consequently direct the respondents to pay the salary for two years of illegally superannuated period from 01.01.2006 to 31.12.2007 and consider the petitioner as employee of Engineering department and pay pension as class IV employee of the respondent Corporation.

For Petitioner : Mr.D.Muthukumar

For Respondents : Mr.Su.Srinivasan for R1 to R3

ORDER

The petitioner who worked as Vacuator worker in the respondent / Food Corporation of India was retired from service through Office order dated 05.11.2005 on 31.12.2005, on attaining the age of 58 years. Thereafter, the petitioner was paid all the terminal benefits. While paying the contributory provident fund amount, a statement was made wherein, the date of retirement of the petitioner was shown as 31.12.2007 instead of 31.12.2005.



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2. Taking advantage of the same, the petitioner started making a claim on the ground that the petitioner is entitled to continue in service till he attains the age of 60 years and submitted a representation dated 03.03.2010 for the first time claiming for payment of emoluments for the period from 01.01.2006 to 31.12.2007. Aggrieved by a non-consideration of the said representation, the petitioner approached this Court by filing W.P.No.3690 of 2011 and this Court by an order dated 21.02.2011 directed the respondents to consider the petitioner's representation.

3. It is pursuant to the said order, the impugned order dated 20.06.2011 came to be passed by the 3rd respondent, rejecting the claim of the petitioner. In the said representation dated 03.03.2010, the petitioner made a claim on multiple grounds and one such ground is an award passed by the Labour Court in ID.No.35 of 1984 dated 06.11.1989 whereby, the Vacuator workers were directed to be absorbed in the Engineering Department of the respondent Corporation depending upon the vacancies.

4. According to the learned counsel for the petitioner, the said award



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dated 06.11.1989 was confirmed by the learned single Judge of this Court in a Writ Petition filed by the respondent Corporation and the same was also upheld by the learned Division Bench. Therefore, the status of the petitioner is to be treated as a part of engineering staff of the respondent Corporation and therefore, he is entitled to be continued in service till he attains the age of 60 years, being the employee of the respondent Corporation.

5. The learned counsel for the respondent contended that the petitioner only worked as Vacuator worker (Mazdoor) and his services were also regularized as Mazdoor and therefore, he is governed by the standing orders and as such his age of retirement is 58 years and not 60 years.

6. After having heard the learned counsel on either side, it is noticed that the petitioner herein is not one of the beneficiaries of the award passed in ID.No.35 of 1984 and therefore, the petitioner claiming any benefit basing upon the said award is not just and proper. Even, otherwise the absorption that was directed under the said award is said to be in vacancies in the Engineering Department. By the date of retirement of the petitioner on attaining the age of 58 years, there was no vacancy available in order to



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absorb the petitioner in the engineering department as per the said award.

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7. Admittedly, the petitioner while working as Mazdoor / vacuator worker, he was permitted to retire from service on 31.12.2005 and the petitioner has not raised any objection against the same till 03.03.2010. It is only after a lapse of five years, the petitioner has started making claim by placing reliance on the award dated 06.11.1989 for which he is not a party. No doubt, even assuming that Vacuator workers are treated as on par with the engineering staff of the respondent Corporation, that by itself does not confer any right or status of the employee of the respondent Corporation and they continued to be a worker governed by standing orders till they were absorbed in the engineering department. Admittedly, no absorption was available and the petitioner retired from service on 31.05.2005 while working as a worker.

8. In the circumstances, the petitioner is not entitled to claim any benefit basing upon the award dated 16.11.1989 in I.D.NO.35 of 1984 and therefore, the claim of the petitioner is not sustainable. In the light of the above and also on the ground of delay and laches, this Court is not inclined



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to interfere with the order passed by the respondent Corporation.

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

Consequently, connected miscellaneous petitions, if any, are closed.

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Internet : Yes/No

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

To

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MUMMINENI SUDHEER KUMAR, J.

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