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W.P.No.36222 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.36222 of 2023

R.Vijaya

...Petitioner

-Vs-

1. Deputy Secretary/Personnel
for Chairman cum Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
No.800, Anna Salai,
Chennai-600 002.
2. The Chief Engineer,
Tiruvannamalai Electricity Distribution Circle,
TANGEDCO,
Tiruvannamalai-606 601.
3. The Superintending Engineer,
Tiruvannamalai Electricity Distribution Circle,
TANGEDCO,
Tiruvannamalai-606 601.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent pertaining to impugned order bearing letter No.38566/A6/A61/2023-1 dated 18.11.2023 and quash the same and consequently direct the first respondent to permit the petitioner to continue her service till her superannuation.



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For Petitioner : Mr.K.Venkateswaran

For Respondents : Mr.K.Rajkumar
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 18.11.2023, thereby rejected the request for withdrawal of voluntary retirement request made by the petitioner.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the materials available on record.

3. The petitioner had joined the service of the first respondent as an Assessor, on 13.12.1985. In the year 2018, after several posts, she was promoted to the post of Deputy Financial Controller. On 28.09.2022, she had offered for voluntary retirement from her service, on account of her ill health and due to her family circumstances and requested to relieve her from service with effect from 04.01.2023. After 43 days from the date of request, she submitted her application, on 10.11.2022, to withdraw her request for voluntary retirement to the first respondent and she had also expressed her willingness to



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continue to serve. However, on 04.01.2023, the first respondent accepted her request for voluntary retirement and relieved her from service with effect from 04.01.2023. Aggrieved by the same, the petitioner preferred a writ petition before this Court in W.P.No.19806 of 2023. This Court by an order dated 22.09.2023, allowed the writ petition and directed the first respondent to take note of the application submitted by the petitioner to withdraw her application for voluntary retirement and pass orders on its own merits. As directed by this Court, the first respondent by an order dated 18.11.2023 rejected the request made by the petitioner stating that her request for withdrawal of voluntary retirement is not feasible of compliance. Hence, this writ petition.

4. The learned counsel for the petitioner would submit that within the notice period viz., 90 days from the date of her request for voluntary retirement, she had submitted withdrawal of her request for voluntary retirement. Rule 56(3)(b) of the Fundamental Rules of the Tamil Nadu Government states that the period of three months notice shall be reckoned from the date of receipt of notice by the appointing authority and Rule 56(3)(g) of the Fundamental Rules states that the Government servant may withdraw the notice of voluntary retirement or withdraw the voluntary retirement after acceptance, as the case



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may be, subsequently with the approval of the appointing authority, before the expiry of the period of notice. However, without doing so, the first respondent passed the impugned order. The petitioner had 4 ½ years of service left till her superannuation. Due to her ill health and her family circumstances, she submitted request for her voluntary retirement. Thereafter, she had recovered from her health issue and therefore opted to withdraw her request for voluntary retirement.

5. A perusal of records revealed that after the request made by the petitioner, on 28.09.2022, she was relieved from her service with effect from 04.01.2023. However, she made another request on 10.11.2022 to withdraw her request for voluntary retirement, viz., before completion of three months notice period.

6. A perusal of the order dated 04.01.2023 revealed that the request for withdrawal of her voluntary retirement dated 10.11.2022 had been referred. Thereafter, she was paid the retirement benefits through her account as early as on 20.02.2023. Though the petitioner did not withdraw the said amount, she failed to raise any objection for depositing her retirement benefits into her



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account. Without objecting the same and without even informing about any objection to the respondents, only in the month of September, 2022, she directly approached this Court challenging the relieving order dated 04.01.2023 in W.P.No.19806 of 2023. This Court only on the ground that her withdrawal application dated 10.11.2022 was not considered and as such, set aside the order dated 04.01.2023 and directed the first respondent to take note of the application dated 10.11.2022 and pass order on its own merits, within a period of two months. As directed by this Court, the first respondent rejected the request made by the petitioner by a detailed order dated 18.11.2023, which is impugned in this writ petition.

7. It is relevant to extract the regulations 17(gg)(g) of the Tamil Nadu Electricity Board Service Regulation as follows:-

“(g) The employee may withdraw the notice of voluntary retirement or withdraw the voluntary retirement after acceptance, as the case may be, subsequently with the approval of the appointing authority, before the expiry of the period of notice.”

Accordingly, an employee may withdraw the notice of voluntary retirement or withdraw the voluntary retirement after acceptance as the case may be, subsequently with the approval of the appointing authority, before the expiry of the period of notice.



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8. Therefore, the withdrawal of voluntary retirement request has to be approved by the appointing authority for consideration. Therefore, it is not automatic that immediately on receipt of the request for withdrawal of voluntary retirement, it has to be considered. It can be considered only after approval of the appointing authority.

9. That apart, as stated supra, the petitioner, after having received the retirement benefits as early as on 20.02.2023, cannot challenge the order of relieving from her service. The question of withdrawal of the amount from her account does not arise, since it is upto the petitioner to decide whether to withdraw or keep the amount in her account. After a period of seven months from the deposit of retirement benefits, the petitioner approached this Court that too directly without raising any objection for relieving her from service before the respondents.

10. Therefore, the first respondent had rightly rejected the request made by the petitioner and this Court finds no infirmity or illegality in the order passed by the first respondent and this writ petition is devoid of merits and is liable to be dismissed.



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11. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
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To

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for Chairman cum Managing Director,
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Distribution Corporation Ltd.,
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