



W.A(MD)No.874 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

W.A(MD)No.874 of 2017

The Director,
National Horticultural Research and
Development Foundation,
Post Box No.61, Kandaz Batata Bhavan,
2954E, New Mumbai, Agra Road,
Nasik-422 001, Maharashtra.

... Appellant/1st Respondent

vs.

1. K.Parameswaran
2. The President,
National Horticultural Research and
Development Foundation,
Bhagwani Bhavan,
47, Pankha Road, Institutional Area,
Janakpuri, New Delhi-110 057.

... 1st Respondent/Petitioner

... 2nd Respondent/2nd Respondent

PRAYER : Appeal filed under Clause XV of Letters Patent, against
the order passed in W.P(MD)No.2578 of 2007 dated 07.02.2014.

For Appellant : Mr.V.O.S.Kalaiselvam
For R1 : Mr.G.Manivannan

Page No.1 of 12



WEB COPY



W.A(MD)No.874 of 2017

JUDGMENT

[Judgment of the Court was made by
MRS.V.BHAVANI SUBBAROYAN.J.]

Challenging the order passed in W.P(MD)No.2578 of 2007 dated 07.02.2014, the writ petitioner has filed this appeal.

2. The 1st respondent/writ petitioner herein was employed as Technical Assistant in the appellant/National Horticultural Research and Development Foundation in the year 1985. He became the permanent staff of the appellant organization and thereafter, while he was working as Senior Technical Officer, the Voluntary Retirement Scheme was introduced in the organization by circular dated 26.04.2006, consequent upon the decision of the Managing Committee at Mumbai in its meeting held on 23.03.2006 at Mumbai. As per the said circular, any employee of the Foundation, who has completed 15 years of service or has attained the age of 40 years, whichever happens earlier will be eligible to seek Voluntary Retirement by making due request in the prescribed form addressed to the appellant, who is the competent authority to accept the request or to reject the same in the over all interest of the Foundation. The



W.A(MD)No.874 of 2017

said Voluntary Retirement Scheme (hereinafter 'VRS' for the sake of brevity) for all employees of NHRDF came into force with effect from 01.04.2006. The writ petitioner made an application dated 23.06.2006 in the prescribed format addressed to the appellant seeking to grant him the benefit under the Voluntary Retirement Scheme with effect from 31.07.2006 citing his family problem as the reason for VRS, but the same was rejected on 04.07.2006, stating that it is not possible to consider his request at this stage. Thereafter, the writ petitioner applied for resignation of his job, by letter dated 01.08.2006 citing the very same reason along with the demand draft for Rs.14,555/- (one month salary) as per NHRDF Rules. The same was duly accepted by letter dated 19.09.2006 and he was permitted to leave the job on his own. Thereafter, the writ petitioner filed writ petition challenging the order dated 04.07.2006, rejecting his request for VRS to quash the same and for a direction to the appellant to treat him as relieved from service on 01.08.2006 under the VRS and confer all benefits under VRS.

3. Though the appellant contended before the Writ Court that the appellant Foundation being Organization of Members registered



W.A(MD)No.874 of 2017

under the Co-operative Societies Act, it cannot be defined as 'State' or 'public body' so as to maintain a writ petition against it, the Writ Court advertent to the judgment of the Honourable Apex Court reported in 2003 (4) CTC 418 (Federal Bank Limited v. Sagar Thomas) relied upon by the writ petitioner found that though the Apex Court has held in the said judgment that schedule bank or private body cannot be called as Institution or person carrying on any statutory or public duty and are not amenable by jurisdiction, in the very same judgment it has been observed that such schedule bank or private body will be amenable to writ jurisdiction, only to compel such body or association to enforce any statutory obligation or obligation of public nature and therefore, the writ petition filed by the 1st respondent herein is maintainable and further holding that the appellant while rejecting the VRS application of the 1st respondent, did not assign any reason which is contrary to the obligation enjoined on the authority concerned in the circular for VRS, thereby, deprived the 1st respondent's benefits under VRS, the Writ Court allowed the writ petition setting aside the order impugned therein and directed the appellant to grant all benefits to the 1st respondent under the VRS scheme. Against the said order, the appellant Foundation is on appeal.



W.A(MD)No.874 of 2017

4. Learned counsel appearing for the appellant submitted that the appellant is registered under the Societies Registration Act XXI of 1860 on 21.5.2004 and its' object as per memorandum and the bylaw No. 3(m) of the society is to promote scientific research and development activities in the field of horticulture with non profit motive. He further submitted that the Writ Court has not considered that receipts of revenue by the appellant society is by way of nominal service charges to cover the cost of services wherever found necessary in the interest of maintaining the financial stability of the national horticultural research and development foundation. Further Rule 6 of the bylaw of the appellant society states that it is a non profit making Association and receives funds through various sources for the service rendered by them among the farming community and onion exporters. It is also submitted that the appellant is neither an undertaking of the Government of India nor functioning through the funds sanctioned by the Government of India and nor even controlled or administered either by the Government of India or any State Government, whereas it is an independent body governed by the elected board of members.



W.A(MD)No.874 of 2017

5. Learned counsel for the appellant further submitted that the circular for voluntary retirement scheme is a decision taken by the management committee and its decision is not a statutory order and therefore, it cannot be challenged in a writ petition. The learned Single Judge has failed to consider that the 1st respondent applied for VRS only for his personal reason and not on account of any statutory obligation and therefore, there is no question of public interest involved to invoke the jurisdiction of this Court under Article 226 of the Constitution. Further, the 1st respondent without challenging the rejection of his VRS application, made another application for resignation citing the same reason and on acceptance of the same, he was relieved and received all his retirement benefits and therefore, he is estopped from questioning the rejection of VRS. However, the learned Single Judge without considering the said aspect has erroneously allowed the writ petition. Thus, he prayed for interference of this Court with the impugned order.

6. A counter affidavit is filed by the 1st respondent/writ petitioner. Learned counsel appearing for the 1st respondent submitted that the appellant itself has issued a certificate that it has been designated



W.A(MD)No.874 of 2017

as a Nodal Agency for implementing the schemes of the Central Government. Further, the appellant foundation is an instrumentality of the State and it is carrying out the research and development activities with the financial assistance of National and Agricultural Co-operative Marketing Federation of India which is functioning under the Ministry of Agriculture. Such observation of the learned Single Judge is not challenged in this appeal. Learned counsel further submitted that the object of the Voluntary Retirement Scheme is to enable the interested employees of the foundation to exit from the service of the foundation conferring with some eligibility and entitlement therefor. When the 1st respondent has satisfied all the norms for VRS, the appellant rejected the same by a blanket order without assigning any reason and the learned Single Judge rightly appreciating the same, has allowed the writ petition. Thus, the learned counsel submits that the interference of this Court is not necessary.

7. We have heard the learned counsel for the appellant as well as the 1st respondent.



8. Though the appellant contended that it is an independent body governed by the elected board of members and it is not administered or controlled either by the Government of India or any State Government, the Writ Court relying upon the judgment of the Honourable Apex Court reported in **2003 (4) CTC 418 (Federal Bank Limited v. Sagar Thomas)** held that schedule bank or private body will be amenable to writ jurisdiction, only to compel such body or association to enforce any statutory obligation or obligation of public nature. As rightly contended by the learned counsel for the appellant, the rejection of the 1st respondent's VRS application is not a statutory order since it is the discretion of the appellant's Director either to accept or reject any request of the employee in the overall interest of the foundation. However, since the appellant rejected the VRS application of the 1st respondent without assigning any reason as narrated in the Circular dated 26.04.2006 for Voluntary Retirement Scheme, the Writ Court proceeded to set aside the said order.

9. When the 1st respondent applied for VRS on 23.06.2006 citing family problem, the appellant rejected the same by order dated



W.A(MD)No.874 of 2017

04.07.2006. Though the rejection order did not contain any reason that the 1st respondent's VRS application is rejected in the overall interest of the foundation, the 1st respondent did not challenge the said rejection order, whereas, he had chosen to submit resignation letter on 01.08.2006 citing the very same family problem and also stated that he would be very grateful to the appellant and other staff who have helped him during his service in NHRDF for the past 21 years. Along with the said resignation letter, the 1st respondent has also enclosed a demand draft for Rs.14,555/- dated 01.08.2006 towards one month salary amount as per NHRDF Rules. On receipt of the said resignation letter from the 1st respondent, the appellant accepted the same by order dated 19.09.2006, relieved the 1st respondent and no due certificate was also issued on 29.08.2006. Pursuant to the said resignation, the 1st respondent was also settled with entire retirement benefits.

10. As stated supra, though the 1st respondent's VRS application was rejected on 04.07.2006 without challenging the same, the 1st respondent submitted his resignation on 01.08.2006 within a period of one month from the said rejection, citing very same family problem.



W.A(MD)No.874 of 2017

When the 1st respondent contends that his VRS application was rejected by the appellant without any reason as stated in the Circular dated 26.04.2006, he ought to have challenged the same in the manner known to law or should have approached the appellant seeking to pass a reasoned order regarding his VRS application. Without resorting to such procedure, after submitting the resignation, received the entire retirement benefits, now the 1st respondent cannot turnaround and contend that he should be deemed to have retired on 01.08.2006 under VRS. Though the Circular dated 26.04.2006 conferring VRS for the employees of the appellant stipulates that the appellant is empowered either to accept or reject the request of any employee in the overall interest of the foundation, the rejection order does not state any reason for rejection. Even assuming that the appellant is not a statutory body to maintain writ petition against it, as per the judgment of the Apex Court reported in **2003 (4) CTC 418 (Federal Bank Limited v. Sagar Thomas)** schedule bank or private body will be amenable to writ jurisdiction, only to compel such body or association to enforce any statutory obligation or obligation of public nature. In this case, VRS was sought by the 1st respondent citing his family problem and as contended by the appellant, the decision of the



W.A(MD)No.874 of 2017

appellant on the VRS application of the 1st respondent does not have statutory backing so as to invoke the writ jurisdiction of this Court. It is purely on the personal reason, the 1st respondent sought VRS and subsequently on the very same reason, submitted resignation and relieved and settled with retirement benefits. Having accepted resignation and retirement benefits, the 1st respondent is estopped from questioning the rejection of VRS application and he cannot set the clock back. The learned Single Judge without adverting to the said technical aspect has erroneously allowed the writ petition. Record of proceedings also shows that while entertaining the writ appeal, this Court had granted interim stay on 03.07.2017 and the same has been made absolute on 24.07.2017.

11. Thus, for all the reasons stated above, the order passed in W.P(MD)No.2578 of 2007 dated 07.02.2014, is set aside and the Writ Appeal is allowed. The Writ Petition is dismissed. No costs.

(V.B.S.J.,)

(K.K.R.K.J.,)

13.03.2024

Index :Yes / No
Neutral Citation :Yes / No
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Page No.11 of 12



WEB COPY



W.A(MD)No.874 of 2017

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K.K. RAMAKRISHNAN, J.

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