



WEB COPY



W.A.No.2051 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2025

CORAM :

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HON'BLE MR.JUSTICE K.SURENDER

W.A.No.2051 of 2025
and C.M.P.No.15559 of 2025

1.SAIL Refractory Company Limited,
rep. by its Chief Operating Officer,
Post Box No.565, Salem-636 005.

2.The Manager (Personnel),
SAIL Refractory Company Limited,
Post Box No.565, Salem-636 005.

.. Appellants

VS

P.Vadivelu,
S/o.E.Palaniappan,
C-5, Burns Colony, SAIL Refractory Company Limited,
Magnesite Mines (PO),
Jagir Ammapalayam (Via),
Salem-636 302.

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent
against the order dated 06.12.2024 passed by the learned Single
Judge in W.P.No.8663 of 2020.



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For Appellants : Mr.S.Karthikesan

For Respondent : Mr.V.Govardhanan

JUDGMENT
(Delivered by R.SUBRAMANIAN, J.)

Challenge is the order of the writ court dated 06.12.2024.

2. The respondent employee sought a declaration that the order passed by the Management requiring him to retire on completing the age of 58 is illegal and contrary to the Board's Resolution dated 07.09.2017.

3. The respondent employee was originally appointed as a Fitter in Burn Standards Company Limited, which is a Public Sector Company. The said company was, subsequently, taken over by the SAIL and it was rechristened as SAIL Refractory Company Limited. The original age of retirement was 58. An option was given to those Public Sector Undertakings, which



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satisfy the three conditions set out in the Official Memorandum issued by the Department of Heavy Industries, Government of India, dated 17.11.2011, to increase the age of retirement to 60. The three conditions are – (i) Positive net worth for the last 3 years; (ii) Continuous net profit for the last 3 years; (iii) Company should not have availed any budgetary support during the last 3 years. Since SAIL Refractory Company Limited satisfied the conditions, the Board passed a resolution on 01.09.2017 enhancing the retirement age from 58 to 60, subject to the approval of the Ministry concerned. It is stated that the approval is yet to be granted.

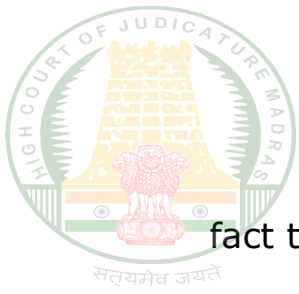
4. The claim of the respondent employee was resisted by the Management contending that unless and until the resolution is approved by the Ministry concerned, it would not come into effect. Since the respondent employee attained the age of 58 in the interregnum, he will have to retire at the age of 58 and he cannot seek continuation of employment till 60. The writ court agreed with the contention of the Management and concluded



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that until and unless the resolution dated 01.09.2017 is approved by the Ministry, the workers who retired in the interregnum cannot claim the benefit of the resolution. On such finding, the learned Single Judge concluded that the writ petition has to be dismissed. The writ court, however, took note of the fact that the respondent employee had worked for two years i.e., till 30.06.2022, and therefore he would be entitled to the benefits that would accrue to him. On the above conclusion the writ court granted monetary benefits for two year period from the date of the actual retirement, namely, 30.06.2020 to 30.06.2022. Aggrieved by this direction, the Management is on appeal.

5. It is not in dispute that the services of the respondent employee were engaged by the Management till 30.06.2022, the date on which he attained the age of 60. Of course, it was because of the interim order passed by this Court. Even if his claim is rejected, it is imperative that a person who had worked for two years should be paid salary and other benefits for the said period. The same cannot be denied to him, more so, when the



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fact that he had worked is admitted.

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6. The learned counsel for the appellants would attempt to raise the question of maintainability of the writ petition on the ground that an alternative remedy before the Central Administrative Tribunal is available.

7. We do not think we can allow the learned counsel to raise the aforesaid contention in the appellate stage. Refusal to exercise jurisdiction, where alternative remedy is available, is only a self-imposed restriction. There is no absolute bar for invocation of a constitutional remedy by the High Court even when alternative remedy is shown to be available.

8. This Court and the Hon'ble Supreme Court have repeatedly held that a writ petition cannot be thrown out on the ground of availability of alternative remedy, after it had been entertained and kept pending for several years. The writ petition is of the year 2020 and it was disposed of by this Court only on



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06.12.2024. We also find that the contention that the writ petition is barred because of the availability of an alternative remedy was not raised before the learned Single Judge.

For the foregoing reasons, the writ appeal fails and, it is, accordingly, dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.)

(K.SURENDER, J.)

07.07.2025

Index : No
NC : No
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To

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