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W.A.No.3822 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.3822 of 2024

1. Chennai Metropolitan Water Supply and Sewerage Board
Rep. By its Managing Director
No.1, Pumping Station Road
Chintadripet, Chennai – 600 002.
2. The Vigilance Officer / General Manager
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road
Chintadripet, Chennai – 600 002.
3. The Enquiry Officer
Chief Engineer (Project) I
Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road
Chintadripet, Chennai – 600 002. .. Appellants

Vs.

C.A.Rajan .. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent Act against the order passed in W.P.No.6804 of 2020 dated 20.12.2023.

For the Appellants : Mr.R.Neelakandan
Additional Advocate General
assisted by Mr.Jerry V V Sundar

For the Respondents : Mr.Balan Haridas



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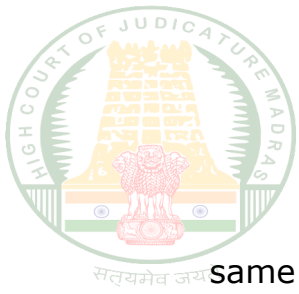
JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

The present intra-Court appeal has been directed against the order passed by the Writ Court dated 20.12.2023 made in W.P.No.6804 of 2020.

2.1. The respondent/writ petitioner was an employee of the appellant Board, against whom, Disciplinary Proceedings were initiated because of a criminal case, where, he has been allegedly involved. Resultantly, the respondent/writ petitioner was suspended from service with effect from 12.08.2012. But, at the same time, though he reached superannuation on 30.04.2014, he was not permitted to retire from service and in other words, his service was retained by the employer Board. Till date, the criminal case is pending, therefore, the Disciplinary Proceedings is also pending, hence, he was not permitted to retire from service for nearly more than a decade.

2.2. When that being the position, in order to get either the Subsistence Allowance or the Provisional Pension equal to the Subsistence Allowance as per the Regulations of the appellant Board, when the employee approached the appellant Board, the



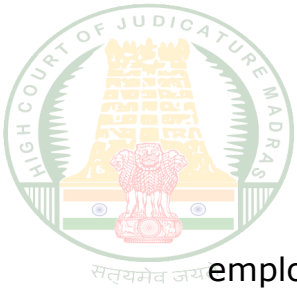
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same was rejected on the ground that unless a Non-Employment Certificate is produced by the employee, such benefits could not be extended to the employee.

2.3. Aggrieved over the same, the employee filed the said writ petition, which was in fact allowed by the learned Writ Court through the impugned order dated 20.12.2023.

3. Assailing the said order, *Mr.R.Neelakandan*, learned Additional Advocate General appearing for the appellant Board would contend that as per the Regulations, the respondent/writ petitioner could only be treated as an employee, since his service has been retained even after superannuation. For the purpose of obtaining such benefits continuously even after his superannuation, he should establish that he has not been gainfully employed elsewhere. To that extent, such a Non-Employment Certificate is required, he contended.

4. When it was specifically asked by this Court that from which Authority, such a Non-Employment Certificate should be obtained and be produced by the employee, it was stated by the learned Additional Advocate General that at least to the satisfaction of the



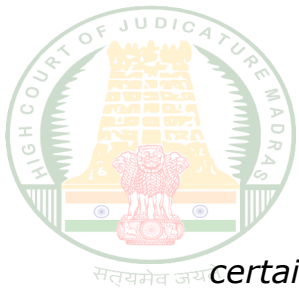
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employer, a self-declaration shall be made by the employee to state that he has not been gainfully employed elsewhere after his superannuation or after his suspension.

5. Learned Additional Advocate General would further submit that at least if such a self-declaration is made in witting and is produced by the employee before the appellant Board, that would be considered, based on which, whatever benefits, like the Subsistence Allowance or Provisional Pension or whatever the nomenclature to be called, for which the employee is entitled during the pendency of the criminal proceedings as well as the Disciplinary Proceedings, as he was not permitted to retire, would be extended to him, he contended.

6. To that extent, what has been submitted by the learned Additional Advocate General has to be accepted. Therefore, there could be no impediment for the employee to make such a self-declaration that he has not been gainfully employed elsewhere. To that extent, the observations made by the learned Single judge in the impugned order in paragraph 7 to state that "*A person who has attained the age of superannuation cannot be compelled to undertake that he will not seek any employment, just because*



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certain proceedings are pending against him" may not be required at this juncture in view of the peculiar facts of the case and also in the context of the Regulations of the appellant Board. The said observation is to be erased, accordingly, the same stands expunged.

7. Therefore, the present appeal stands disposed of at the admission stage itself after hearing *Mr.R.Neelakandan*, learned Additional Advocate General for the appellant Board and *Mr.Balan Haridas*, learned counsel for the respondent/writ petitioner. Resultantly, the following orders are passed in the present writ appeal:

(i) The impugned order passed by the learned Single Judge is to be sustained, accordingly, the same stands sustained, except the observation made in paragraph 9 of the impugned order, i.e., "insisting the petitioner to produce the Non-Employment Certificate alone is set aside", is to be expunged, accordingly, the same stands expunged. In all other respects, the impugned order shall remain unaltered.

(ii) Pursuant to this order, it is open to the



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respondent/writ petitioner to produce a self-declaration immediately to the appellant Board and on receipt of the same, the appellant Board shall release the benefits, which we have discussed herein above, to the employee forthwith within a maximum period of thirty days from the date of receipt of a copy of this order, as well as the self-declaration produced by the respondent/writ petitioner.

8. The present writ appeal, as such, stands disposed of. There shall be no order as to costs. Consequently, C.M.P.No.30090 of 2024 is closed.

(R.S.K., J.) (C.S.N, J)
21.01.2025

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.
(drm)

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