

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.A.No.1353 of 2023

G.Kannan

... Appellant

-VS-

Indian Institute of Technology
Rep. by the Chairman,
Board of Governors,
IIT-Madras, Chennai - 600 036.

..Respondent

Prayer: To allow the appeal and set aside the order dated 12.04.2023 passed in W.P.No.7951 of 2015.

For Appellant: Mr.V.P.Raman

For Respondent: Mr.Karthik Rajan
for M/s.Menon

J U D G M E N T

(Judgment of the Court was delivered by S.M.Subramaniam J.)

Under assail is the Writ Order dated 12.04.2023 passed in W.P.No.7951 of 2015. Writ Petitioner is the appellant before this Court.

2. Appellant was holding the post of Programmer Grade-I in the Department of Computer Science and Engineering of the Indian Institute of Technology (in short 'IIT'), Madras. In order to take up an



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assignment in a teaching consulting capacity with M/s.Data Software Research Co. Ltd. at New Zealand, the appellant had applied for leave for a period of two years with effect from 17.06.1985. While granting permission to avail leave to go abroad, appellant signed an undertaking agreement on 13.08.1986 and the said undertaking agreement prescribed certain conditions for availing leave. The relevant condition is extracted hereunder:

“AND WHEREAS, IndiAn Institute of Technology, Madras have agreed to grant me leave Ex-India, Extraordinary leave (without pay and allowances) for a period of two years with effect from 17.6.05 to 16.6.87 on the condition that no extension of the said leave shall be allowed unless. it is decided otherwise by the authorities wall in advance on my request and if I fail to return to duty at the Institute on the expiry of the aforesaid leave I shall be deemed to have resigned from my post at the Indian Institute with effect from the day immediately next to the date on which the said leave expires, unless I opt to retire under voluntary retirement scheme duly conforming to the conditions attending to such scheme of retirement in vogue in the Institute.”

3. The above undertaking is not disputed by the appellant. As per clause in the undertaking, no extension of leave shall be allowed and if appellant fails to return to duty at the Institute on the expiry of leave period, he shall be deemed to have resigned from the post at the Institute with effect from the day immediately next to the date on which the said leave expires. However, before expiry of leave period, an option was given to the appellant to opt for retirement under Voluntary Retirement Scheme (VRS) duly confirming to the conditions attending to such scheme of retirement in vogue in the Institute.



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4. Thus, appellant either would have joined the service on expiry of leave period on 16.06.1987 or opted for VRS by submitting appropriate application before expiry of leave. Admittedly, application for VRS was submitted by appellant only on 01.07.1987, pertinently after initiation of action by the respondent in respect of deemed resignation clause agreed between the parties in the undertaking.

5. Curiously, appellant neither returned back to India nor reported for duty, but continue to reside abroad and presently, he is residing in United States of America (USA). Thus, appellant had no intention to rejoin duty. Application for VRS was submitted after initiation of action by respondent by invoking the deemed resignation clause as per undertaking given by appellant. Pursuant to the letter dated 29.06.1987, informing appellant that action is proposed to be taken as per the undertaking dated 13.08.1986, letter to opt for VRS was submitted on 01.07.1987. However, the said letter was not taken into consideration, since it was not in conformity with the condition agreed by the appellant in the letter of undertaking.

6. Pertinently, Board of Governors of IIT passed an order, which was communicated to appellant through Deputy Registrar vide



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Office Order dated 03.09.1987 that in accordance with the undertaking given by appellant on 13.08.1986, he is deemed to have resigned from the service of IIT and he is relieved of his duty with effect from 16.06.1987 AN. The said order dated 03.09.1987 remains unchallenged till today. After a lapse of about 27 years from the date of passing of order, accepting deemed resignation on 03.09.1987, appellant submitted a representation through Email on 10.02.2015 and the said Email representation was considered by IIT and reply was given to appellant on 25.03.2015, stating that his request for voluntary retirement cannot be considered. The said letter dated 25.03.2015 alone was challenged in writ proceedings by the appellant. Writ Court considered the facts and dismissed the writ petition on the ground that cause of action arose in the year 1987 and order passed by IIT would show that the appellant was deemed to have resigned from service with effect from 16.06.1987. Therefore, representation submitted on 10.02.2015 and the reply given by IIT on 25.03.2015 would not constitute cause of action for reopening the issue, which had been settled in the year 1986 itself.

7. Learned counsel for the appellant would contend that subsequent correspondences between IIT and State Government as well as reply given to appellant would show IIT was in the process of considering the application of the appellant for voluntary retirement.



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However, in the reply impugned dated 25.03.2015, five clear reasons were communicated to the appellant that he is not entitled for voluntary retirement. That apart, appellant, as per IIT, had not completed 20 years of service. Therefore, he is not eligible to opt for VRS. Mere correspondences between IIT and State Government in respect of past services rendered with State Government would not confer any right to claim the benefit of VRS, which was not accepted by IIT. More so, State Government is not a party to the present writ proceedings or in the Writ Appeal. Thus, correspondences between IIT and State Government has no relevant in view of the fact that IIT passed order on 03.09.1987, invoking the condition agreed by appellant in the Undertaking and the deemed resignation clause was invoked with effect from 16.06.1987.

8. Further, learned counsel for the appellant would mainly concentrate, by stating that period of qualifying service has to be reckoned as 20 years by rounding of the tenure, as the voluntary retirement application was taken into consideration by IIT after passing of the order dated 03.09.1987 and therefore, the claim of voluntary retirement ought to have been considered. Such an argument deserves no merit consideration, since representation submitted after a lapse of 23 years to the same Authority on 10.02.2015 would not provide any right to reopen the cause of action in respect of an issue, which was settled in



the year 1987. It is not as if an aggrieved employee can reopen the settled issue after a lapse of several years.

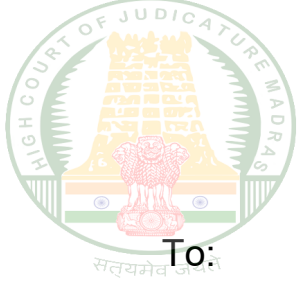
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9. In the present case, based on the undertaking given by employee, he was relieved from service by IIT by invoking deemed resignation clause vide order dated 03.09.1987 and the said order remains unchallenged. Thus, any further correspondences or representation or reply to the representation would not provide any right to reopen issue, which became final and binding on appellant. That apart, appellant at no point of time continued his service in IIT and even now, he continues to reside in USA.

For all these reasons, the present Writ Appeal, being devoid of merits, stands dismissed No costs.

(S.M.S.,J.) (N.S.,J.)
03-06-2026

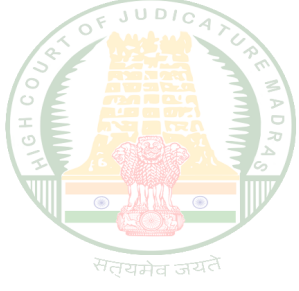
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Speaking/Non-speaking order
Neutral Citation: Yes/No
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To:

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The Chairman
Indian Institute of Technology
Board of Governors,
IIT-Madras,
Chennai - 600 036.



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S.M.SUBRAMANIAM,J.
AND
N.SENTHILKUMAR,J.
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