
(2009) 04 MAD CK 0233
In the Madras High Court
Case No : Writ Petition No. 32059 of 2006

K. Ramanathan

APPELLANT

Vs

The Govt. of Tamil Nadu

RESPONDENT

Date of Decision : 06-04-2009

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2009) 5 MLJ 235

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : D. Peter Francis, for the Appellant; P. Gurunathan, GA, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner, who was working as a Secondary Grade Teacher in the District Board Higher Secondary School from

1952 to 1964, filed O.A. No. 7426 of 1997 before the Tamil Nadu Administrative Tribunal, seeking for a direction to the respondents to sanction

pension with effect from 5.1.1981 and to continue to pay the same.

2. At the time of filing of the O.A., the petitioner was 65 years old. The only ground on which the petitioner placed reliance for the grant of pension

was the order passed by the Tribunal in the case of one K. Ammaiyappan v. The Government of Tamil Nadu made in O.A. No. 2600 of 1990,

dated 24.04.1996.

3. According to the petitioner, after the direction issued by the Tribunal, the Government has implemented the order in G.O.Ms. No. 827,

Education, dated 25.11.1996. In that order, the case of the individual was considered on the basis of the voluntary retirement in terms of FR 56

and he was given the benefit of pension after holding that he had served various local body schools for nearly 20 years. On the basis of this order,

the petitioner made a representation, dated 26.5.1997. In that representation, he has stated that he had tendered resignation on 16.8.1964.

4. In view of the abolition of the Tribunal, the matter stood transferred to this Court and was renumbered as W.P. No. 32059 of 2006.

5. Mr. D.Peter Francis, the learned Counsel for the petitioner contended that since the Government had implemented the order of the Tribunal, he

must also be given the benefit of the said order. However, he could not make any rebuttal, when the Tamil Nadu Pension Rules, 1976 disqualifying

the pension for any person, who resigned from service. The petitioner's employment cannot be considered in any way equivalent to that of the

case of Ammaiyappan for two reasons.

6. One, in that case, the Government exercised the power to convert the resignation to voluntary retirement and he had put in 20 years of service,

whereas in the case of the petitioner, such a contingency does not arise. First of all, he has not put in 20 years of service. Even on his own

representation, he mentioned that he had put in only 12 years of service. The Pension Rules do not provide pension for any such person. In this

context, it is relevant to refer to the decision of the Supreme Court in a judgment in UCO Bank and Others Vs. Sanwar Mal, . The following

passage in paragraph 9 may be usefully referred to:

9. ...The effect of resignation and retirement to the extent that there is severance of employment but in service jurisprudence both the expressions

are understood differently. Under the Regulations, the expressions ""resignation"" and ""retirement"" have been employed for different purposes and

carry different meanings. The pension scheme herein is based on actuarial calculation; it is a self-financing scheme, which does not depend upon

budgetary support and consequently it constitutes a complete code by itself. The scheme essentially covers retirees as the credit balance to their

provident fund account is larger as compared to employees who resigned from service. Moreover, resignation brings about complete cessation of

master and servant relationship whereas voluntary retirement maintains the relationship for the purposes of grant of retiral benefits, in view of the

past service. Similarly, acceptance of resignation is dependent upon discretion of

the employer whereas retirement is completion of service in terms of regulations/rules framed by the bank. Resignation can be tendered irrespective of the length of service whereas in the case of voluntary retirement, the employee has to complete qualifying service for retiral benefits. Further, there are different yardsticks and criteria for submitting resignation vis-a-vis voluntary retirement and acceptance thereof. Since the pension regulations disqualify an employee, who has resigned from claiming pension the respondent cannot claim membership of the fund. In our view, Regulation 22 provides for disqualification of employees who have resigned from service and for those who have been dismissed or removed from service. Hence, we do not find any merit in the arguments advanced on behalf of the respondent that Regulation 22 makes an arbitrary and unreasonable classification repugnant to Article 14 of the Constitution by keeping out such class of employees. The view we have taken is supported by the judgment of this Court in the case of Reserve Bank of India and Another Vs. Cecil Dennis Solomon and Another, . Before concluding we may state that Clause 22 is not in the nature of penalty as alleged. It only disentitles an employee who has resigned from service from becoming a member of the Fund. Such employees have received their retiral benefits earlier.

7. Further, recently the Supreme Court in a judgment in C. Jacob v. Director of Geology and Mining and Anr. reported in 2008 AIR SCW 7233, had taken a view that under the Tamil Nadu Pension Rules, there is no question of granting pension for rendering service for 10 years and pension cannot be granted on sympathy alone. In the very same judgment, the Supreme Court also held that by sending a representation belatedly, the stale cause of action cannot be revived.

8. In the light of the above, this writ petition stands dismissed. However, there shall be no order as to costs.