
(2003) 09 MAD CK 0035
In the Madras High Court
Case No : Writ Petition No. 37834 of 2002

V.S. Mani

APPELLANT

Vs

The Chief Engineer (Distribution) Tamil Nadu Electricity Board, The Superintending Engineer, C.E.D.C. and The Chief Engineer (Personnel) Tamil Nadu Electricity Board "Electricity Avenue"

RESPONDENT

Date of Decision : 29-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 09 MAD CK 0035

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : V. Prakash, for the Appellant; V. Radhakrishnan, for the Respondent

Final Decision : Allowed

Judgement

A.K. Rajan, J.—This writ petition has been filed for the issuance of a writ of certiorarified mandamus to call for the records of the first

respondent in connection with his order dated 6.12.2000 bearing Memo. No. 22014/720/C.II/89-10 and the order of the third respondent

bearing No. 073188/G.6/G.61/2002-2 dated 28.8.2002 in so far as it denies the petitioner's pensionary benefits from the date of his compulsory

retirement on 21.6.1988 and quash the same and direct the respondents herein to pay the pensionary benefits to the petitioner herein with effect

from the date of his compulsory retirement on 21.6.1988 with interest thereon.

2. The brief facts that are necessary for this case are as follows:-

The petitioner was employed in the Electricity Board as Turbine Operator. He joined service on 1.10.1960. It is seen that he had obtained a

housing loan for a sum of Rs.33,500/= but he had not utilised the same for building the house. Therefore charges were framed against him and an enquiry was also conducted. In the enquiry he was found guilty of the charges framed. After completing all the formalities, a punishment of dismissal was imposed by the authorities against him. This order of dismissal was challenged by the petitioner by way of a writ appeal. Considering the facts of this case, this court passed an order that since the authorities have not considered the petitioner's request of taking a sympathetic view, set aside the order of dismissal dated 21.6.1988. Thereafter the impugned order came to be passed, whereby the order of dismissal was converted into one of compulsory retirement. The impugned order reads as follows:-

Accordingly, the Chief Engineer/ Distribution/Chennai hereby orders that the punishment ordered by the Superintending Engineer/Chennai

Electricity Distribution Circle /South in Memo No.290/Admn.4/A.2/DP/88-1 dated 21.6.1988 imposing a punishment of dismissal is modified as compulsory retirement.

It is further ordered that Thiru V.S. Mani, Turbine Operator is eligible for all terminal benefits. However, he is eligible for pension only with effect

from 16.8.2000 i.e. the date of pronouncement of judgment in W.P.381 of 1998 by the Honourable High Court of Madras. He is entitled to draw

pension with effect from 16.8.2000.

Challenging the above order, the present writ petition has been filed.

3. Mr. V. Prakash, learned counsel appearing for the petitioner submitted that the order of dismissal has been modified as one of compulsory

retirement. Therefore he is entitled to all the monetary benefits including pension from that date of his compulsory retirement. But the authorities

have passed a specific order stating that the petitioner is entitled to pension only from 16.8.2000, the date of pronouncement of the order in writ

appeal by this court. The learned counsel for the petitioner also submits that this order is invalid and the petitioner should have been given pension

from the date on which he was compulsorily retired namely, from 21.6.1988. onwards.

4. Heard the arguments for the learned counsel for the respondents. The respondents have not filed any counter. The learned counsel for the

respondents while arguing would contended that the period namely, 21.6.1988 to 16.8.2000 was considered as leave that he was eligible and

therefore he was not granted any monetary benefits. Since the order of compulsory retirement was passed only on 6.12.2000, the pension was ordered to be paid only from 16.8.2000.

5. When the impugned order specifically states that the punishment ordered by the Superintending Engineer dated 21.6.1988 imposing the

punishment of dismissal is ""modified"" as compulsory retirement, it means that the petitioner is compulsorily retired from 21.6.1988; hence he is

entitled to all the benefits including pension from that date of his compulsory retirement namely, from 21.6.1988. But strangely in the impugned

order it has been stated that the petitioner is eligible for pension only with effect from 16.8.2000, the date of pronouncement of the judgment by the

Division Bench of this court in the Writ Appeal. It is common knowledge that when the impugned order is set aside, the order is set aside from the

date on which it was passed. This court on 16.8.2000 passed an order setting aside the order of dismissal, dated 21.6.1988, which means that the

said order is set aside with effect from 21.6.1988. But this has been deliberately construed wrongly by the respondents that the order takes effect

only on 16.8.2000. This sort of twisting the order of this court is not appreciated and cannot be tolerated. The Electricity Board, which is a

statutory authority should not indulge in such practice. It is unfortunate that the Electricity Board has chosen to pass such an order. Further when a

person has compulsorily retired from 21.6.1988, it is not known as to what was his status, according to the respondents, from 21.6.1988 till

16.8.2000. The reply given by the learned counsel for the respondents that he was to be considered to be ""on leave"" for which he was eligible

cannot be accepted. By no stretch of imagination, for twelve years, it can be said that a person is eligible for leave. Therefore the impugned order

is passed without any basis and it is liable to be set aside and accordingly set aside. The petitioner is entitled to get his pension from 21.6.1988.

6. Inasmuch as the impugned order has been passed deliberately, the person, who passed this order is accountable for passing such illegal and

deliberate order contrary to the order of this court. The amount for which the petitioner is eligible from 21.6.1988 to 16.8.2000 shall be paid

together with interest at the rate of 6% per annum by the Electricity Board. The Electricity Board in turn shall recover the interest payable by the department from the person, who had passed this order from his pay or it shall be recovered from his pension, if he had already retired from service.

7. With the above observation, the writ petition is allowed. No costs.