

G.Gopinath Vs. the Director, Directorate of Technical E

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Court : Kerala

Decided On : Oct-04-2013

Judge : Honourable Mr. Justice a.V.Ramakrishna Pillai

Appellant : G.Gopinath

Respondent : The Director, Directorate of Technical E

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI FRIDAY, THE 4TH DAY OF OCTOBER 2013 12TH ASWINA, 1935 WP(C).No. 5071 of 2009 (D) ----- PETITIONER(S): ----- G. GOPINATH, ENGINEERING INSTRUCTOR (SG) RETD., SOUTHERN RAILWAY B-113, ITTINA ABBY, L.B. SASTRY NAGAR VIMANAPURA.P.O, BANGALORE - 560 017. BY ADVS.SRI.G.HARIHARAN SRI.PRAVEEN.H. RESPONDENT(S): ----- 1. THE DIRECTOR, DIRECTORATE OF TECHNICAL EDUCATION THIRUVANANTHAPURAM, KERALA.

2. THE GENERAL MANAGER, PUBLIC GRIEVANCES CELL, SOUTHERN RAILWAY CHENNAI - 600 003.

3. THE CHIEF PERSONAL OFFICER, PERSONAL BRANCH, SOUTHERN RAILWAY HEAD QUARTERS CHENNAI. R1 BY GOVERNMENT PLEADER BY SRI.N.B.SUNIL NATH,SC, RAILWAYS BY SRI.T.P.M.IBRAHIM KHAN, ASST.S.G

OF INDIA THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04.10.2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 5071 of 2009 (D) ----- APPENDIX PETITIONER'(S) EXHIBITS: EXT.P1 COPY OF THE COMMUNICATION DATED 07.02.2007 SENT FROM THE OFFICE OF CHIEF PERSONAL OFFICER, PERSONAL BRANCH, SOUTHERN RAILWAY HEAD QUARTERS, CHENNAI ADDRESSED TO THE PETITIONER. EXT.P2 COPY OF THE COMMUNICATION NO.P(W)443/XIV/RS/PENSION/ VOL.II DATED 07.02.2007 SENT FROM THE OFFICE OF CHIEF PERSONAL OFFICER, PERSONAL BRANCH, SOUTHERN RAILWAY HEAD QUARTERS, CHENNAI ADDRESSED TO THE DIRECTOR OF TECHNICAL EDUCATION. EXT.P3 COPY OF THE COMMUNICATION NO.E(G)2003/PN3-1 DATED 02.07.2007 ISSUED BY THE RAILWAY BOARD. EXT.P4 COPY OF THE COMMUNICATION DATED 03.12.2007 ISSUED FROM THE 2D RESPONDENT'S OFFICE TO THE PETITIONER. EXT.P5 COPY OF THE REPRESENTATION DATED 08.12.2007 SENT BY THE PETITIONER ADDRESSED TO THE DIRECTOR OF TECHNICAL EDUCATION, THIRUVANANTHAPURAM. EXT.P6 COPY OF THE CERTIFICATE DATED 02.02.2002 ISSUED BY THE SUPERINTENDENT TECHNICAL HIGH SCHOOL. EXT.P7 COPY OF THE

JUDGMENT

NO.2700/2008 DATED 23.01.2008. EXT.P8 COPY OF THE COMMUNICATION DATED 26.05.2008 ISSUED FROM THE 3D RESPONDENT. EXT.P9 COPY OF THE GOVERNMENT

ORDER

DATED 17.06.1989 VIDE G.O. NO. G.O.P. 298/89/FIN ISSUED BY THE GOVERNMENT OF KERALA. EXT.P10 COPY OF THE COMMUNICATION DATED 10.05.2013 ISSUED BY THE 3D RESPONDENT. RESPONDENT'(S) EXHIBITS: ANNEX.R3(a) COPY OF THE LETTER NO.P1/18874 DATED 5.2.08 ISSUED BY THE 1T RESPONDENT TO THE 3D RESPONDENT. ANNEX.R3(b) COPY OF THE LETTER NO.P1/188741 DATED 24.03.08 ISSUED BY THE 1T RESPONDENT TO THE 3D RESPONDENT. //TRUE COPY// PA TO JUDGE BKA A.V. RAMAKRISHNA PILLAI, J.

JUDGMENT

The petitioner is aggrieved by Ext.P8 communication issued by the 3rd respondent stating that it is not possible to condone the break of service of the petitioner during vacation.

2. The petitioner was working as a workshop Instructor in the Junior Technical School. He joined service on 27.10.1966 and his service continued up to 05.10.1974 with break of service during annual vacation. Subsequently, he was made permanent in the year 1973- 1974, and thereafter, he joined Railway after resigning his job. While computing his service for pensionary benefits, clarification was sought for by the 3rd respondent for counting the services rendered under the Government of Kerala vide Ext.P2 communication. Subsequently, Ext.P4 communication was also sent by the W.P.(C) No. 5071 of 2009 ..2.. 3rd respondent requesting for taking necessary action to condone the break in service for computing the pensionary benefits. The petitioner sent Ext.P5 representation to the 1st respondent along with Ext.P6 certificate to issue a letter condoning the break in service during annual vacation to the petitioner so as to enable him to get pensionary benefits. The grievance of the petitioner is that Ext.P8 communication was issued without considering Ext.P5 representation. The petitioner also relies on Ext.P9 dated 17.06.1989, where the Government ordered that when the State Government employee borne on pensionable establishment is allowed to be absorbed in the Government of India/Autonomous Body, the service rendered by him under the Government shall be allowed to be counted towards pension under the Government of India/Autonomous Body irrespective of whether the employee was temporary or permanent in the Government. It appears that none of the exhibits, i.e., Exts.P5, P6 and P9 are considered by the 3rd respondent W.P.(C) No. 5071 of 2009 ..3.. in taking a decision in the matter. Therefore, Ext.P8 communication is quashed. The matter is remitted back to the 3rd respondent to reconsider the matter taking into account Exts.P5, P6 and P9, and also after affording an opportunity of being heard the petitioner. The entire exercise shall be

completed within a period of three months from today. The writ petition is disposed of as above. Sd/- A.V. RAMAKRISHNA PILLAI, JUDGE bka/-

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