

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7774 OF 2021
(Arising out of S.L.P.(C) No.5214 of 2019)

SECRETARY TO GOVERNMENT & ORS.

.....Appellant(s)

Vs.

K. KUMARASAMY

.....Respondent(s)

O R D E R

Leave granted.

The Respondent has joined Tamil Nadu Medical Service on 4th April, 1962. He submitted his resignation on 1st April, 1975. On the ground that his resignation came to be accepted w.e.f. 1st April, 1986, claiming pension he has filed Writ Petition No.8439 of 2016 before the High Court of Madras. The learned Single Judge of the High Court has dismissed the writ petition by order dated 07.03.2016 on the ground of delay and laches. The respondent has preferred intra-court appeal in Writ Appeal No.858 of 2016. The Division Bench of the High Court has disposed of the matter by issuing directions to the appellants to consider the claim of the respondent on sympathetic grounds.

We have heard learned counsel for the parties, perused the impugned order and other material placed on record.

It is not in dispute that respondent, after joining the service on 04.04.1962, resigned on 01.04.1975. He has not completed 20 years of service. This Court, in the case of C. Jacob v. Director of Geology & Mining & Anr. (2008) 10 SCC 115, has

considered the import of Tamil Nadu Pension Rules, 1978 and held that to claim the benefit of pension one should have completed not less than 20 years of qualifying service. The effective service of the respondent was only upto 01.04.1975. The 'service' as referred to in the Rules has to be considered as effective service. Merely on the ground that resignation was accepted lately, respondent cannot claim pension. It is further to be noted that though he tendered his resignation as early as 01.04.1975, he has filed writ petition in the year 2016. There is abnormal delay and laches on the part of the respondent in approaching the High Court.

Though the learned Single Judge has rightly dismissed the writ petition on the ground of delay and laches, the Division Bench of the High Court, only on the ground that respondent's resignation was kept pending, has allowed the appeal and issued directions. There is no reason or justification on the part of the respondent to explain the inordinate delay and laches in approaching the High Court. That apart, the respondent has also not put in required qualifying service to claim pension.

For the aforesaid reasons, this appeal is allowed. Impugned order dated 2nd August, 2018 passed by the High Court in W.A. No. 858 of 2016 is set aside. No order as to costs.

Pending application(s), if any, shall stand disposed of.

.....J.
(R. SUBHASH REDDY)

.....J.
(HRISHIKESH ROY)

New Delhi;
December 17, 2021.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 5214/2019

(Arising out of impugned final judgment and order dated 02-08-2018 in WA No. 858/2016 passed by the High Court of Judicature at Madras)

SECRETARY TO GOVERNMENT & ORS.

Petitioner(s)

VERSUS

K. KUMARASAMY

Respondent(s)

Date : 17-12-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R. SUBHASH REDDY

HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Amit Anand Tiwari, AAG
Dr. Joseph Aristotle S., AOR
Ms. Mary Mitzy, Adv.
Ms. Devyani Gupta, Adv.
Ms. Preeti Singh, Adv.
Mr. Sanjeev Kumar Mahara, Adv.

Mr. M. Yogesh Kanna, AOR

For Respondent(s) Mr. Siddharth Naidu, Adv.
M/S. KSN & Co., AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of signed order.

Pending application(s), if any, shall stand disposed of.

(NEETA SAPRA)

COURT MASTER (SH)

(DIPTI KHURANA)

COURT MASTER (NSH)

(Signed order is placed on the file)