

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5274 OF 2008

Rajasthan State Road Transport Corporation
& others Appellants

Vs.

Madu Giri (Dead) through Lrs. & Anr. Respondents

AND

CIVIL APPEAL NO. 952 OF 2009

Rajasthan State Road Transport Corporation
& Another Appellants

Vs.

Mohini Devi Respondent

J U D G M E N T

M.Y. EQBAL, J.:

1. The short question involved in these appeals is : Whether the employees of the appellant-Rajasthan State Road Transport Corporation are eligible to claim pensionary benefits under the Pension Scheme in view of the non-compliance with the essential conditions stipulated in the Regulations which govern the said Pension Scheme?

2. Admittedly, the concerned employees [Madugiri and Yakub Khan, respondents (since deceased) in Civil Appeal No.5274 of 2008 and late Nathu Singh, respondent's husband in Civil Appeal No. 952 of 2009] of the appellant-Corporation retired from service respectively on 31.1.1991, 31.1.1992 and 31.3.1992 and were paid Contributory Provident Fund (CPF) including the share of employer's contribution. On 11.1.1993, the Rajasthan State Road Transport Corporation Employees Pension Regulations, 1989 (in short "the Regulations") came into force. As per clause 3(1) of the said Regulations, option was given to the existing employees as well as those employees who retired before coming into force of these Regulations but before acceptance of option and grant of benefit condition was placed on the employees to refund the employer's share of CPF with interest. The above named employees exercised their option in favour of the pension scheme under the Regulations, but did not deposit the amount of employer's share of CPF with interest in lumpsum within the stipulated time.

3. Clause 3(1) of the said Regulations reads as under:

“Option’ means a written consent of the existing regular employees for pensionary and gratuity benefit along with the adoption of the General Provident Fund Regulations,

1989 or to continue as member of the existing CPF scheme covered under the EPF Act, 1952 within a period of 90 days from the date of publication of RSRTC Pension Regulations. Any existing employee who does not exercise the option within specified period of 90 days shall be deemed to have exercised option in favour of the Pension and CPF Regulations.

The option once exercised or deemed to have been exercised shall be considered as final and no representation in this respect shall be considered valid for any revision. It will be for the personal responsibility of the departmental officer to ensure that his option reaches timely in the office of Dy. G.M. (P&F) RSRTC, Jaipur.

xxx

xxx

xxx

In case any employee or his nominee obtains the final refund of CPF between 1st April 1989 and specified period for exercising option, the employer's share with accrued interest time to time shall have to be deposited in lump sum before granting the option for pension.”

4. As the amount of employer's share of CPF with interest in lumpsum was not deposited by the employees within the stipulated time, their claim for grant of pensionary benefit was rejected by the appellant-Corporation. The decision of the Corporation was challenged in the High Court by filing writ petitions which were disposed of with direction to the Corporation to accept the option submitted by the employees with regard to grant of pension and to allow the same to the employees by deducting the amount of excess

provident fund with interest which is said to be granted earlier. Aggrieved by the orders passed in writ petitions, the appellants herein filed D.B. Civil Special Appeals (W) before the Division Bench of the High Court which were dismissed by the orders impugned in these appeals.

5. After hearing the learned counsel appearing for the parties and perusing the Regulations, particularly Clause 3(1) as quoted hereinabove, we are of the considered opinion that the view taken by the learned Single Judge and also the Division Bench is not in consonance with the conditions prescribed in the said Regulations.

6. The learned Single Judge disposed of the writ petition filed by Madugiri and Yakub Khan, with the following directions:

“Accordingly this petition for writ is disposed of with a direction to the respondent Rajasthan State Road Transport Corporation to accept the option submitted by the petitioners with regard to grant of pension and then the same be allowed to them by deducting the amount of excess provident fund with interest which is said to be granted earlier. The respondent Corporation shall complete all formalities with regard to grant of pension and deduction of excess provident fund amount said to be paid to the petitioners within a period of four months from

the date the petitioners submit a certified copy of this order to the respondent No.3 along with a representation for acceptance of pension in terms of this order.”

Similar directions were issued by the learned Single Judge in another writ petition filed by Mohini Devi.

7. The Division Bench has considered the Regulations but failed to notice that there is apparent error in the order passed by the learned Single Judge. Indisputably, the concerned employees retired from service in 1991 and 1992 and after retirement they were paid CPF including the share of employer's contribution. Hence, as per Clause 3 of the Regulations, no right accrued to the appellants/employees to claim pensionary benefits without first depositing the amount and complying with the Regulations.

8. The matter was examined by this Court in **Pepsu Road Transport Corporation, Patiala vs. Mangal Singh and Others**

(2011) 11 SCC 702 wherein it was held as under:

“51. The common thread which runs through all these appeals canvassed before us is that the respondents have failed to comply with the terms and conditions of the Regulations, which govern the Pension Scheme. We

have already considered the nature and effect of the regulations, which are made under a statute. These statutory regulations require to be interpreted in the same manner which is adopted while interpreting any other statutory provisions. The Corporation as well as the respondents are obliged and bound to comply with its mandatory conditions and requirements. Any action or conduct deviating from these conditions shall render such action illegal and invalid. Moreover, the respondents have availed the retiral benefits arising out of CPF and gratuity without any protest.

52. The respondents in all these appeals, before us, have made a claim for pensionary benefits under the Pension Scheme for the first time only after their retirement with an unreasonable delay of more than 8 years. It is not in dispute, in some appeals, that the respondents never opted for the Pension Scheme for their alleged want of knowledge for non-service of individual notices. In other appeals, although the respondents applied for the option of the Pension Scheme but indisputably never fulfilled the quintessential conditions envisaged by the Regulations which are statutory in nature.”

9. We are, therefore, of the opinion that, in the facts and circumstances of the case and in view of the law laid down by this Court in the judgment referred to hereinabove, impugned orders passed by the learned Single Judge and the Division Bench of the High Court cannot be sustained in law.

10. For the reasons aforesaid, these appeals are allowed and the impugned orders are set aside. However, there shall be no order as to costs.

.....J.
(P. Sathasivam)

.....J.
(M.Y. Eqbal)

New Delhi,
April 26 , 2013.



JUDGMENT

SUPREME COURT OF INDIA



JUDGMENT