

A THE GOVERNMENT OF TAMIL NADU AND ANR.

v.

K. JAYARAMAN

FEBRUARY 3, 1997

B [K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Service Law : Pension—Voluntary resignation—Accepted by the Government—Qualifying service for pension—Shortage of—Subsequently qualifying service reduced—Held, since the amended rule came into force later it cannot be given retrospective effect—However, since the employee had rendered 2 years of temporary service and the shortfall is three years for computing pension, Government directed to consider his case and pass appropriate orders within 4 months.*

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 699 of 1997.

From the Judgment and Order dated 22.4.96 of the Tamil Nadu Administrative Tribunal at Madras in O.A. No. 159 of 1990.

V. Krishnamurthy for the Appellants.

E Mrs. K. Sarada Devi for the Respondent

The following Order of the Court was delivered :

Leave granted.

F We have heard learned counsel for the parties.

G When the respondent failed to be represented pursuant to the notice issued by this Court, we requested the Supreme Court Legal Services Committee to assign the counsel. Accordingly, Smt. K. Sarada Devi has been assigned the case.

H This appeal by special leave arises from the order of the Administrative Tribunal, Madras, made on April 22, 1996 in O.A. No. 159/90. The admitted facts are that the respondent was initially appointed in a contingent establishment on November 20, 1942 and was later appointed on regular basis as an Attendant on February 18, 1945. He tendered resigna-

tion by letter dated June 6, 1970 claiming that he had right to take voluntary retirement as he had put in 25 years of service. The same was accepted by the Government w.e.f. March 19, 1970. As per the pre-existing rules, the Government servant was required to put in 30 years of qualifying service for pensionary benefits. Rules came to be amended by G.O. Ms. No. 1537 which came to be effective from November 13, 1972. It was stated therein that the Government may, by giving him notice of not less than three months in writing or three months pay and allowances in lieu of such notice, after he has attained the age of fifty years or after he has completed twenty five years of qualifying service retire any Government servant. Any Government servant who has attained the age of 50 years or who has completed 25 years of qualifying service may also likewise retire from service by giving notice of not less than three months in writing to the appropriate authority. This rule has come into force, as stated earlier, w.e.f. November 13, 1972. The respondent voluntarily retired w.e.f. March 19, 1970 and since then, he has already joined another institution. The view of the Tribunal that he is entitled to pension on completing 25 years of qualifying service applying the aforesaid G.O., is clearly illegal. It cannot be given retrospective effect. However, since the respondent had rendered two years of temporary service and there is a short-fall of three years for computing the pension, Government is at liberty and is accordingly directed to consider his case whether he is eligible in accordance with appropriate procedure to pensionary benefits or relaxation may be given and pass appropriate orders within a period of four months from the date of receipt of the order.

The appeal is accordingly disposed of. No costs.

G.N.

Appeal disposed of.