

## S. Ramdoss Vs Central Warehousing Corporation

**Court:** Madras High Court

**Date of Decision:** Sept. 26, 2011

**Acts Referred:** Central Warehousing Corporation (Staff) Twenty Second (Amendment) Regulation, 1998 &"  
Regulation 21

**Hon'ble Judges:** K.K. Sasidharan, J; D. Murugesan, J

**Bench:** Division Bench

**Advocate:** G.S. Sivakumar, for the Appellant; P. Davuodu, for the Respondent

**Final Decision:** Allowed

### Judgement

The Honourable Mr. Justice D. Murugesan

1. The writ appeal is directed against the order dismissing the writ petition which relates to the entitlement of the appellant for monetary benefits as

per Special voluntary retirement scheme introduced by the respondent - Central Warehousing Corporation.

2. As per the Circular of the respondent Corporation dated 24.02.1998, voluntary retirement scheme was available to those officials who have

completed ten years of service or 40 years of age on the date of introduction of the scheme. By application dated 02.03.1998, the appellant

applied for voluntary retirement. The said application was accepted by the Competent Authority on 03.04.1998 and the appellant was relieved

from duty on 01.06.1998. It appears that in the meantime, the age of retirement was enhanced from 58 years to 60 years. It was notified in official

gazette on 28.05.1998.

3. The question arises as to whether the appellant, whose application was accepted even on 03.04.1998 and relieved only on 01.06.1998 would

be entitled to monetary benefits, calculating the period of service up to the age of 60 years. For determination of the above, we may refer to the

amendment made to regulation 21 which reads as under :-

21. Superannuation and retirement:-

(i) Every employee below Board level appointed to the service of the Corporation shall retire on the last day of the month in which he/she attains

the age of sixty years;

provided that an employee whose date of birth is the first of the month shall retire from service on the afternoon of the last day of preceding month

on attaining the age of sixty years :

provided further that no employee shall be granted extension in service beyond the age of retirement of sixty years.

(i-A) Sub-regulation (i) shall not be applicable to an employee who is on extension in service of the Corporation on the date of the commencement

of the Central Warehousing Corporation, (Staff) Twenty Second Amendment Regulation, 1998

4. It is not in dispute that the age of retirement was enhanced from 58 years to 60 years by the above amendment. The petitioner availed the special

voluntary retirement scheme under the regulation which was in force and applied for the same on 02.03.1998. Though the said application was

accepted by the competent authority on 03.04.1998, the fact remains, as could be seen from the order of relieving dated 01.06.1998, that the

petitioner was relieved from duty from the service of the Corporation only with effect from 01.06.1998 (afternoon). If that be so, he should be

considered to be in service till 01.06.1998 (afternoon). In the meantime, the rule has been amended by enhancing the age of retirement from 58 to

60 years, which came into force on the date of publication in the official gazette on 28.05.1998. There is no communication by way of any circular

that even such of those officials who have already availed the benefits of the scheme and opted to go on voluntary retirement prior to the

enhancement of the retirement age would be entitled for the monetary benefit as if their age of retirement was 58 years only. In the absence of the

same, the appellant who had opted for voluntary retirement scheme as per the original conditions stipulated by circular dated 24.02.1998 would be

deemed to be in service, even though his application for voluntary retirement scheme was accepted. In such an event, the petitioner would be

entitled to the monetary benefits calculated as if his age of retirement is 60 years.

5. In this context, we may refer to the unreported Judgment of the Bombay High Court which arose under similar circumstances and in fact, the

present respondent was a party in that case also, made in W.P.No. 1385 of 2001 dated 01.10.2009 (Padma T. Motihar vs. Central Warehousing

Corporation and Anr.), taking a similar view.

6. In view of the same, the order impugned in the Writ Petition is set aside. Consequently, the Writ Petition and the writ appeal are allowed.

Respondent is directed to calculate the monetary benefits payable to the appellant as per the Special voluntary retirement scheme on the footing

that on the date of his retirement viz., 01.06.1998, his age of retirement is 60 years and not 58 years.

7. Respondent is directed to calculate the amount payable to the appellant in accordance with this judgment and such an order shall be passed

within a period of three months and the payment shall also be made within that period. The writ appeal is allowed. No costs. Consequently,