

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.1673 of 2014

Irwin Parker

.. Appellant/Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep by its Secretary to Government,
Collegiate Education,
Secretariat, Chennai-9.
 - 2.The Principal Accountant General (A&E),
No.361, Anna Salai,
Chennai-600 018.
 - 3.The Regional Joint Director of Collegiate Education,
Kovai Region and In-charge of
Joint Director of Collegiate Education,
Jamal Mohammed College Campus,
Trichirapalli Region, Trichy.
 - 4.The Principal / Secretary,
Bishop Heber College,
Puthur, Trichy-17.
- .. Respondents/Respondents

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 25.03.2013 made in W.P.No.15095 of 2012.

Writ Petition praying to certiorarified mandamus to quash the proceedings passed by the second respondent / the Principal Accountant General (A&E), Chennai, in Pen.23/I/4164 Urg./2011-12, dated 12.09.2011, and also the proceedings in O.Mu.No.3084/C2/2011, dated 20.06.2011, passed by the third respondent / the Regional Joint Director of Collegiate Education, Trichy, by calling for the records connected thereto and consequently, to direct the respondents to pay the pension to the petitioner on completion of 10 years service and pay the arrears of pension to the petitioner with effect from 22.11.1984.

For Appellant : Mr.L.Chandrakumar

For Respondents: Mr.D.Krishnakumar, Spl.G.P. (Education)
for RR1 and 3
Mr.V.Vijay Shankar for R-2
Mr.P.Balamurali for R-4

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 25.03.2013 passed in W.P.No.15095 of 2012.

2. The appellant / writ petitioner, questioning the legality and validity of the order dated 12.09.2011 passed by the second respondent and also the proceedings in O.Mu.No.3084/C2/2011 dated 22.06.2011 passed by the third respondent, sought for a direction to the respondents to pay pension to the writ petitioner on completion of 10 years of service and to pay arrears of pension to the writ petitioner with effect from 22.11.1984.

3. The facts in brief are :

The writ petitioner resigned from service while working as Tutor in the Department of Mathematics in Bishop Heber College, Trichy, after having put in 12 years 5 months and 21 days of service, on 21.11.1984. The resignation was accepted peacefully without any demur. Subsequently, the writ petitioner made a representation on 04.04.2011 on the basis of the decision passed in W.P.(MD)No.7510 of 2010 for the grant of pension after completion of 10 years with arrears. The said letter was forwarded to the second respondent by third respondent on 22.6.2011. The second respondent by order dated 12.9.2011 rejected the representation, holding that the writ petitioner is not entitled to pensionary benefits. Thus, the instant writ petition.

4. The contention of the learned counsel for the writ petitioner before the Writ Court was that one Mr.Shanmugam, working as Secondary Grade Teacher, resigned on 12.2.1975 and the pensionary benefit was declined to him. He moved the Administrative Tribunal in O.A.No.1417 of 1990. The Tribunal directed the respondents to grant pension to the applicant with effect from 5.6.1981, by an order dated 9.1.1997. The petitioner has further cited a case of one Mr.S.V.Paul Jayaraj, who preferred a writ petition long back, which was allowed and a Division Bench, by order dated 27.7.2001, had affirmed the view taken by the learned Single Judge. A Special Leave Petition preferred thereagainst was also rejected on 10.1.2002. An identical case came up in the year 2010, which was allowed vide order dated 30.8.2010. In compliance of the orders passed by the High Court, the State Government had issued the Government Order on 7.8.2002 in case of S.V.Paul Jayaraj, granting him pensionary benefits with effect

from 5.6.1981 when Mr.S.V.Paul Jayaraj resigned from service in the year 1967 and preferred the writ petition in the year 1994. It is further contended by the learned counsel for the writ petitioner that this court has entertained the petitions after a long time in all the above stated cases and granted the appropriate relief.

5. Be that as it may, the petitioner, admittedly, resigned from service on 21.11.1984. From this period till filing of the writ petition, several petitioners allegedly similarly situated, came up to the court and relief was granted. On that basis, the writ petitioner has preferred this petition. In this case, even according to the writ petitioner, relevant G.O.Ms.No.123 was issued on 7.8.2002. The writ petitioner did not take any measure to come to the court seeking for identical relief till March, 2012, almost about 10 years after passing of G.O. in case of one employee in August, 2002. From the date of resignation till filing of the instant petition, a period of 28 years have elapsed. The learned Single Judge held that the writ petitioner had slept over 27 years after resignation and submitted his representation on 4.4.2011.

6. We do not find any infirmity as the writ petitioner has acquiesced the fact of no entitlement for pension by not taking steps for about 27 years. The writ petitioner's claim is based on certain individual cases, not on the basis of any G.O, dealing with all similarly situated employees. Thus, at this stage, the writ petitioner/appellant is not entitled to any relief. The learned Single Judge has rightly dismissed the petition on the grounds of laches. We are not inclined to go into the merits of the case. The writ appeal is, accordingly, dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

सतगामेन जयते
Sub Assistant Registrar

vvk

To

1.The Secretary to Government,
The State of Tamil Nadu,
Collegiate Education,
Secretariat, Chennai-9.

2.The Principal Accountant General (A&E),
No.361, Anna Salai, Chennai-600 018.

3.The Regional Joint Director of Collegiate Education,
Kovai Region and In-charge of
Joint Director of Collegiate Education,
Jamal Mohammed College Campus,
Trichirapalli Region, Trichy.

1 cc to Mr.L.Chandrakumar ,Advocate, SR.No.7253
1 cc to Mr.P.Balamurali ,Advocate, SR.No.7005
1 cc to Mr.V.Vijay Shankar ,Advocate, SR.No.7223

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