

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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WRIT PETITION No. 25137 of 2000

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ORDER:

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The present Writ Petition is filed seeking issuance of writ of mandamus declaring the action of the respondent for not sanctioning the pension to the petitioners on their retirement from TTDs service on superannuation w.e.f. 30.06.1999 A.N. vide Memo ROC.No.D11/2110/ DEO/99 dated 30.04.1999 as arbitrary, discriminatory and illegal.

The averments in the affidavit filed in support of the Writ Petition are as under :

The first petitioner herein was appointed in the cadre of watchman and the second petitioner in the cadre of scavenger (both in class-iv service) in Sri Padmavathi Women's College Hostel which is under the management of Tirumala Tirupathi Devasthanams (TTDs). The first petitioner was joined in the year 1977 and the second petitioner was joined in the year 1982. Both the petitioners were initially granted consolidated pay and subsequently granted the time scale of pay attached to post held by them vide Resolution No.677 dated 21.07.1987. Later by its resolution No.192 dated 03.06.1991 the TTDs Trust Board resolved to regularize the services of the petitioners and others and issued orders vide Memo Roc.No.D11/2110/DEO/99, dated 30.04.1999 permitting the petitioners to retire from service w.e.f. 30.06.1999 on attaining age of superannuation. It is further stated that the respondent had issued orders vide proceedings No.E7/46431/96 dated 03.07.1997 extending all benefits of retirements to the Hostel workers on par with other TTDs employees. As per the orders of the Executive Officer, the petitioners were permitted to retire from service w.e.f. 30.06.1999.

It is stated though the petitioners have retired from service on 30.06.1999 till date the respondent neither sanctioned the pension to the petitioners nor paid other retirement benefits in spite of several representations made by the petitioners. Challenging the inaction of the respondents in granting pension the present Writ Petition is filed.

The respondent/Tirumala Tirupathi Devasthanam filed its counter denying the averments made in the Writ Petition except those which are specifically admitted by them in the counter. The averments in the counter show that there was no sanctioned post of Watchman and Scavenger in Sri Padmavathi Women's College Hostel. The Hostel Wardens have utilized their services as and when required. Their salaries were met from the Hostel Funds collected from the students and considering their N.M.R. service excluding breaks they are absorbed into TTD with effect from 03.06.1991, as per Resolution No.192 of the Board of Trustees, TTD and as such the service of the petitioners under TTD commence only from 03.06.1991. No dispute is raised with regard to the date of superannuation i.e., 30.06.1999. It is stated that as per A.P. State and Subordinate Pension Rules **(APLPR 1981)** the petitioners have not put up the required service in T.T.D., from the date of their absorption i.e., 03.06.1991 to qualify for pension. According to them the pensionary benefits cannot be extended to the petitioners for want of required length of qualifying service in T.T.D. Since the petitioners have not put up 10 years of service from the date of absorption into T.T.D., it is represented that the petitioners are not entitled for any pension.

No reply is filed to the counter.

Learned counsel for the petitioners while accepting the plea that the petitioners are entitled for pension only after completion of 10 years of service from the date of their regularization, however states that though the petitioners were granted consolidated pay but subsequently they were granted time scale of pay attached to the post held by them vide resolution No.192 dated 03.06.1991 of TTDs Trust Board. The fact that the petitioners were absorbed as regular

employees of T.T.D. by resolution No.192 w.e.f. 03.06.1991 is not in dispute. But it is to be noted the petitioners did not place the resolution No.677 dated 21.07.1987 issued by the TTDs Trust Board fixing time scale to the post held by them. The counter filed by the respondents does not refer to the said aspect. Similarly in the proceedings dated 30.04.1999 issued by the Executive Officer, T.T.D., Tirupati , permitting them to retire from service on attaining the age of superannuation shows the Wardens of the College Hostels are requested to take further course of action to retire the above non-teaching staff on the dates noted against each in column No.4 during the calendar years 1999 and 2000 and report compliance of the same.

Though the counsel for the petitioners took time to cite cases as to whether in any situation like this the persons are entitled for pension even though they have not completed 10 years of service, but could not place any judgment /rule in support of the said plea.

On the other hand, learned counsel for the respondent relying upon the judgment of the Apex Court in ***K.Madalaimuthu and another v. State of T.N. and others*** states that the petitioners are not entitled for any pension unless they have not completed qualifying service of 10 years.

The judgment relied upon by the learned counsel for the respondent relates to an issue as to whether the officer therein was entitled seniority in the cadre. It was held by the Apex Court that a person who is appointed temporarily to discharge the functions in a particular post without recourse to the recruitment rules, cannot be said to be in service till such time as his appointment is regularized. It, therefore, follows that it is only from the date on which his services are regularized that such appointee can count his seniority in the cadre.

In the instant case by relying on the contents of the memo and the proceedings of T.T.D. issued in 1999, the learned counsel for the petitioner strenuously contends that the petitioners are entitled for pension. But the learned counsel for the respondents submits that

since the petitioners were absorbed into the service of T.T.D. in the year 1991 and as they retired in the month of June 1999 without completing 10 years of service, the petitioners are not entitled for pension in view of the A.P. Pension Rules. As stated earlier, the resolution No.677 dated 21.07.1987 of T.T.Ds. Trust Board is not placed on record. Apart from that the record clearly discloses that the petitioners whose services were regularized in T.T.D. in the year 1991 retired in the month of June, 1999 without completing ten years of service as required for awarding pension. In view of the above, I see no reason to grant the relief as sought for. However, it is made clear that if the petitioners are entitled for any other relief, the T.T.D. shall consider the same in accordance with law.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

JUSTICE C. PRAVEEN KUMAR

Date:06.08.2015

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