

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8439 of 2016

Dr.K.Kumarasamy

.. Petitioner

-vs-

1. Secretary to Government
Health and Family Welfare Department
St.George Fort
Chennai 600 009

2. The Directorate of Medical Education
Kilpauk
Chennai 600 010

3. The Principal Accountant General
261, Anna Salai
Chennai 600 018

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records in the impugned letter No.4895/B1/2015-2 dated 27.01.2016 on the file of the first respondent and quash the same and consequently direct the respondents to pay pension to the petitioner with interest by taking into account the qualifying service rendered by the petitioner.

For Petitioner :: Mr.N.S.Nandakumar

For Respondents :: Mr.S.Gunasekaran
Additional Government Pleader
for R1 & R2

ORDER

The petitioner, Dr.K.Kumarasamy has come to this Court so belatedly seeking for payment of pension, since he resigned from the post of Assistant Surgeon, Government Erskine Hospital, Madurai during the period from 15.12.62 to 1.4.75. Although the learned counsel for the petitioner submitted that due to personal reasons, after going on earned leave from 1.5.74 to 22.7.74, again continuing his leave on loss of pay from 23.7.74 to 31.3.75, the petitioner submitted his letter of resignation

citing personal reasons on 20.3.75 and his resignation was also accepted in G.O.Ms.No.793, Health and Family Welfare Department dated 17.4.86 as per the communication issued by the first respondent, this Court is not inclined to entertain the writ petition. The reason is that it is the petitioner's own case that while he was serving as Assistant Professor of Surgery, Madurai Medical College from 15.12.62 to 1.4.75, he submitted his resignation letter on 20.3.75 citing personal reasons. But his letter of resignation, according to him, was lost by the department. Therefore, his resignation was not accepted. However, based on the proposal of the year 1981, the acceptance of his resignation was communicated by the first respondent to the second respondent in G.O.Ms.No.793, Health and Family Welfare Department dated 17.4.86. On this basis, the claim of the petitioner that he is entitled to get the pensionary benefits, since he had completed more than twelve years of service, is also far from acceptance. The reason is that even if his letter of resignation dated 20.3.75 is deemed to have been accepted on 17.4.86 in G.O.Ms.No.793, Health and Family Welfare Department dated 17.4.86, as per the then prevailing law, the resignation forfeits pension. Therefore, on the basis of the subsequent ruling that has come after the year 2000 from this Court, the petitioner cannot ask for re-opening his case once again. Accordingly, the writ petition fails and it is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ss
To

- सत्यमेव जयते
1. The Secretary to Government
Health and Family Welfare Department
St.George Fort
Chennai 600 009
 2. The Directorate of Medical Education
Kilpauk
Chennai 600 010
 3. The Principal Accountant General
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+1 cc to M/s.N.S.Nandakumar Advocate sr.14496
+1 cc to the Government Pleader sr.14634

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