



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM:

THE HONOURABLE **MR.JUSTICE M.SATHYANARAYANAN**
and
THE HONOURABLE **MS.JUSTICE J.NISHA BANU**

Writ Appeal (MD).No.301 of 2013

M.Ayyavoo

... Appellant

Vs.

1. The Registrar,
Tamil Nadu Agricultural University,
Coimbatore 641 003.

2. The Dean,
Tamil Nadu Agricultural College,
Othakadai,
Madurai District 625 104.

... Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order passed by this Court in W.P.(MD).No.2035 of 2009 dated 22.01.2013.

Prayer in WP(MD). 2035/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus, directing the Respondents to permit the petitioner to serve till the age of 60 in the Second Respondent College as per Rule 56(1) of the Fundamental Rules.

For Appellant	:	Mr.T.Lajapathi Roy
For Respondents	:	Mr.T.Sakthi Kumaran

J U D G M E N T

(Judgment of the Court was made by **M.SATHYANARAYANAN, J.**)

By consent, the writ appeal itself is taken up for final disposal.

2. The petitioner, in the affidavit filed in support of the petition, would among other things that for about 8 years, he was



working as Casual Mazdoor in the Department of Agronomy in the second respondent College and on 28.12.1979, he was appointed as a watchman (Provisional Mazdoor) in the Fisheries College, Tuticorin. The first respondent, vide proceedings dated 28.01.1986, had regularised the service of the petitioner in the time scale of pay and subsequently, he was accorded selection grade post with effect from 30.12.1994 F.N. as per the proceedings of the first respondent in the scale of pay of Rs.800-15-1010-20-1150/- and thereafter, granted temporary promotion as attender in the scale of pay of Rs.775-12-835-15-1030 and posted in the Department of Animal Husbandry Statics, Madras Veterinary College, Chennai. Though the petitioner had raised very many objections for reducing the pay scale in the temporarily promoted status, it was not heeded. It is further submitted by the petitioner that he was transferred from Chennai to Thirupparangundran Veterinary Research Centre and was further transferred to Regional Research Centre, Pudukottai and that the Tamil Nadu Agricultural University and Tamil Nadu Veterinary and Animal Science University were separated and by G.O.Ms.No.198 dated 23.11.2005, an option was given to the employees to chose either of the institution and the petitioner has exercised his option and accordingly, he was absorbed in the service of Tamil Nadu Agricultural University and posted as watchman in the Department of Entomology. The grievance expressed by the petitioner was that though he was posted in the post of Attender, he was not given any further promotion or increment and treated as an Office Assistant through out his service career and later on, he was informed that he has to retire at the age of 58 years, while similarly placed like that of the petitioner, who are working as watchmen and office assistants would retire at the age of 60. In this regard, he had submitted a representation dated 28.11.2008, praying for permission to continue in service till the age of 60 years. However, without heeding to the said request, he was relieved from service at the age of superannuation on 31.01.2009. The petitioner, even after retirement was repeatedly submitting his representation praying for extension of service up to 60 years and since the said request was not heeded, came forward to file a writ petition. The writ petition was entertained and notice was ordered to the respondents and later on, it was taken up for final disposal. The learned Judge, after hearing the rival submissions that though the petitioner had obtained the age of superannuation and retired from service on 30.01.2009, filed the writ petition during March 2013 and the petitioner has failed to approach this Court, while he was in service and also not challenged the action of the respondents in retiring him from service at the age of 58 years and assigning the said reasons, dismissed the writ petition vide order dated 22.01.2013 and hence, this writ appeal.

<https://hcservices.courts.miz.in/hcservices/> 3. Mr. T. S. Jeyapathi Roy, the learned counsel appearing for the appellant would vehemently contend that the persons similarly placed like that of the petitioner, who was working as watchmen



and office assistants from service were permitted to continue in service up to the age of 60, whereas the petitioner has been discriminated and compelled to retire the age of superannuation on 30.01.2009, at the age of 58 years and hence, prays for interference.

WEB COPY

4. Per contra, the learned counsel appearing for the respondents 1 and 2 would contend that as per the Service Rules, the age of the superannuation in Tamil Nadu Agricultural University only 58 years and as such, the prayer sought for by the petitioner cannot be granted and it is delay in laches. The learned Judge, after considering the relevant facts and circumstances of the case, has rightly dismissed the writ petition and prays for dismissal of the writ appeal.

5. This Court has paid its anxious consideration to the rival submissions made by Mr.T.Lajapathi Roy, the learned counsel appearing for the appellant and Mr.T.Sakthi Kumaran, the learned counsel appearing for the respondents and perused the typed set of papers.

6. Admittedly, the petitioner was retired from service on attaining the age of superannuation on 30.01.2009. Though it is contended by the learned counsel for the appellant that through out his service career, he was repeatedly submitting the representation, the fact remains that he did not choose to invoke the jurisdiction of this Court at the earliest point of time and that apart, nearly after four years from the date of retirement, he has filed the writ petition, on 12.03.2012. As rightly pointed out by the learned Judge in the impugned order that the petitioner has also not challenge the proceedings in and by which, he was retired from service on attaining the age of 58 years .

7. In the considered opinion of this Court, the reasons assigned in the impugned order for dismissing the writ petition not appear to be perverse and this Court finds that there is no error apparent on the face of the record. Therefore, the writ appeal is dismissed, confirming the order dated 22.01.2013 passed in W.P.(MD).No.2035 of 2009. However, there will be no order as to costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

<https://hcservices.courts.gov.in/> The Registrar,

Tamil Nadu Agricultural University,
Coimbatore 641 003.



2. The Dean,
Tamil Nadu Agricultural College,
Othakadai,
Madurai District 625 104.

WEB COPY

+1 cc to MR.T.Lajapathi Roy, Advocate SR.No.62001

+1 cc to MR.A.THIRUMURTHY, Advocate SR.No.61038

Writ Appeal (MD).No.301 of 2013
18.10.2016

SMA/SKS-RR/11.11.2016:4P/5C