

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2017

CORAM

The Hon'ble Mr.Justice T.Raja

W.P.No.7058 of 2017

and

W.M.P.Nos.7659 and 7660 of 2017

A.Palanisamy

... Petitioner

Vs.

1. The Director of Town Panchayats,
Chennai - 600 108.
 2. The District Collector,
Namakkal District, Namakkal.
 3. The Assistant Director of Town Panchayats,
Salem.
 4. The Director of Local Fund Audits,
Chennai - 600 108.
 5. The Executive Officer,
Namagiripet Town Panchayat,
Namagiripet, Namakkal District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ Certiorarified Mandamus, to call for records on the file of the fifth respondent, pertaining to the proceedings in Na.Ka.No.502/2015/A1, dated 31.10.2015, and to quash the same and issue consequential directions to the respondents to permit the petitioner to continue in service as Turncock and to grant the petitioner all consequential monetary benefits, including the monthly salary from 01.11.2015 to 31.10.2017 and on that basis to grant the petitioner all consequential retirement and pensionary benefits.

For Petitioner

:Mr.M.Ravi

For Respondents 1 to 4

:Mr.T.M.Pappiah

Special Government Pleader

For Respondent-5

:Mr.A.Rajaperumal

Additional Government Pleader

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the order of retirement, dated 31.10.2015, passed by the fifth respondent, and to direct the respondents to permit him to continue in service as Turncock and to grant all consequential pensionary benefits.

3. The petitioner joined as Turncock in the Namagiripettai Town Panchayat on 22.07.1987 and has put in 28 years of service. As per Rule 21 of the Tamil Nadu Town Panchayats Establishment Rules, 1988, a person in basic service shall be allowed to retire from service on attaining the age of 60 years. The grievance expressed by the petitioner is that, as per the said Rule, he has to be allowed to retire from service only on 31.10.2017, as his date of birth is 12.10.1957. But the fifth respondent, by the impugned order, has asked him to retire from service on 31.10.2015. Seeking revocation of the said order, he made a representation, dated 31.01.2017 to the fifth respondent. Despite receipt and acknowledgment, no orders have been passed till date. Hence, the petitioner is constrained to approach this Court by way of filing this Writ Petition, seeking for the relief, as mentioned above.

4. Mr.M.Ravi, the learned counsel appearing for the petitioner would submit that, admittedly, the post of Turncock comes under the Basic Service, and as per Rule 21 of the afore mentioned Rules, the petitioner has two more years for his retirement. Further, when the fifth respondent submitted pension proposals of the petitioner to the fourth respondent, the same was returned by proceedings, dated 08.09.2016, by clearly stating that the order of retirement is a premature one, as the petitioner has been made to wrongly retire from service on completion of 58 years of service, and unless and until, ratification is obtained from the Government as regards the premature retirement, pension proposals will not be processed. The learned counsel, therefore, submitted that the proceedings of the fourth respondent would, per se, prove that the petitioner has been made to retire from service even before the completion of 60 years, which is in violation of Rule 21 of the afore mentioned Rules, and therefore, prays for quashing the impugned order.

5. On the above submission, heard Mr.T.M.Pappiah, learned Special Government Pleader, who accepts notice on behalf of respondents 1 to 4 and Mr.A.Rajaperumal, learned Additional Government Pleader, who accepts notice on behalf of fifth respondent.

6. This Court does not find any justification on the part of the petitioner, in approaching this Court belatedly. Admittedly, the impugned order, directing the petitioner to retire from service was issued on 31.10.2015. If the petitioner is aggrieved over the same, either he ought to have moved an application/representation before the concerned higher Authorities, or, should have approached this Court within a reasonable time, but, there happened to be a delay of nearly one year and four months in approaching this Court, and nowhere, in the Writ Petition, the reason for the delay has been properly explained. Therefore, I am not inclined to entertain this Writ Petition, as this Court always encourages and entertains a person, who is active and approaches the Court within a reasonable time, and not the one, who is dormant and lethargic, even though he has a valid claim to be considered.

7. For the reasons stated herein above, this Writ Petition fails, and it is dismissed. When the above order was directed, the learned counsel appearing for the petitioner has brought to the notice of this Court, though the petitioner was made to retire from service prematurely, till date, he has not been settled with the terminal benefits. Hence, he prays that this Court may be pleased to issue appropriate direction to the respondents to disburse the terminal benefits to the petitioner without any hassle.

8. In view of the request made by the learned counsel for the petitioner, this Court directs the petitioner to submit a fresh representation for disbursement of terminal benefits within a period of one week from the date of this order, and on receipt of such representation, the concerned respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a further period of three weeks thereafter.

9. In the result, the Writ Petition is dismissed, as indicated above. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Director of Town Panchayats\
Chennai - 600 108.
2. The District Collector,
Namakkal District, Namakkal.
3. The Assistant Director of Town Panchayats,
Salem.
4. The Director of Local Fund Audits,
Chennai - 600 108.
5. The Executive Officer,
Namagiripet Town Panchayat,
Namagiripet, Namakkal District.

+1cc to Mr.M.Ravi, Advocate Sr.18543
+1cc to the Government Pleader Sr.18653

सत्यमेव जयते

W.P.No.7058 of 2017

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srg 04/03/2017

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