



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.3458 of 2017
and
W.M.P. (MD) No.2812 of 2017

T.Gowri : Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by the Secretary,
Handloom, Handicrafts, Textiles & Khadi Department,
Fort.St.George, Chennai 600 009.

2.The Director,
Department of Sericulture,
Annaimeadu, Salem, 636 001.

3.The Assistant Director,
Department of Sericulture,
Tenkasi, Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus, directing the respondents to allow the petitioner to continue in service as sericulture Worker till the completion of 60 years of age as per Fundamental Rules 56(i).

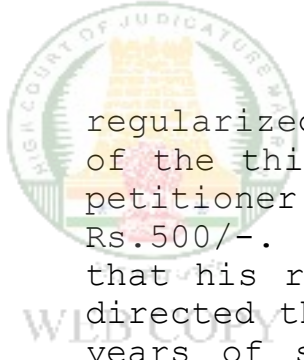
For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.C.Selvaraj
Special Government Pleader

O R D E R

The petitioner has come up with the present Writ Petition seeking a Writ of Mandamus, directing the respondents to allow him to continue in service as Sericulture Worker till the completion of 60 years of age, as per Rule 56(i) of the Fundamental Rules.

<https://hcservices.courts.tn.nic.in/hcservices> of the petitioner is that she joined the third respondent Department as Sericulture Worker in the year 1980, on daily wage basis. Subsequently, the service of the petitioner was



regularized and she was appointed on regular basis by the orders of the third respondent dated 28.04.2010. The scale of pay of the petitioner was fixed at Rs.2,500/- - Rs.5,000/- + Grade Pay of Rs.500/-. Though the petitioner was under the *bona fide* belief that his retirement age would be 60 years, the respondents orally directed the petitioner to retire from service on completion of 58 years of service, viz., on 05.03.2017, by placing reliance upon the Government Letter dated 20.06.2011, wherein it has been stated that the Sericulture Workers do not fall under the Tamil Nadu Basic Service Rules and therefore, the retirement age cannot be prescribed as 60 years as in the case of the workers, falling under the Tamil Nadu Basic Service Rules. Under the above stated circumstances, the petitioner has come forward with the present Writ Petition.

3. The learned counsel for the petitioner, in support of his contention, placed reliance upon the order passed by this Court in W.P.Nos.14977, 15614 to 15616 of 2011 and W.P.No.1231 of 2013, dated 24.01.2013, wherein in Paragraph No.14 and 15, it has been held as follows:-

"In the present case, as agreed in the counter affidavit, the State Government fixed the pay lower than the scale of pay available to basic service, certainly, they will be treated either under the basic service or below the basic service. It cannot be said that the petitioners are coming under the superior service, considering the scale of pay fixed to them. Since the Government has admittedly fixed the scale of pay to the petitioners below the persons working under the basic pay, it has to be taken that they are also coming under the basic service or something below the basic service. If the employees under the basic service are entitled to get retired at the age of 60 years, there is no reason for the person, like the petitioners, who are drawing scale of pay lesser than the pay of the basic servants, to reject their contention that they should be retired at the age of 60 years, unless the petitioners service was declared as superior service. When their pay is fixed below the pay of the basic service, they belong to basic service.

Therefore, it is hereby declared that the petitioners are entitled to have retired at the age of 60 years. The stand taken by the State Government vide Government Letter dated 20.06.2011 that if such a claim is conceded, there is likelihood of similar claims coming from other Section, is only to be rejected. Insofar as any claim is made by similarly placed persons, then, the Government will have to consider those claims as per the existing Rules and also as considered in the present cases and their



claims cannot be rejected because the petitioner's claim was accepted, especially, when their services were regularised and they were drawing pay lesser than the basic service".

4. It is not in dispute that the petitioners in the above cases, dealt with by this Court earlier, are daily wage workers in Sericulture Department. The facts in issue in the present case are the same and this Court has directed to retain the similarly placed persons in service, until they reach the age of 60 years. Hence, the present Writ Petition is allowed and the respondents are directed to allow the petitioner to continue in service as Sericulture Worker till the petitioner attains the age of 60 years, as per Rule 56(i) of the Fundamental Rules. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Handloom, Handicrafts, Textiles & Khadi Department,
Fort.St.George, Chennai 600 009.
- 2.The Director,
Department of Sericulture,
Annaimedu, Salem, 636 001.
- 3.The Assistant Director,
Department of Sericulture,
Tenkasi, Tirunelveli District.

+One cc to The Special Government Pleader, SR.No.15106

NB

RL/5C/3P/SKN/27.3.2017

ORDER MADE IN

W.P. (MD) No.3458 of 2017