

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. No.4448 of 2011

1. S.Surendran
2. A.Jayaprakash
3. S.Ganesan
4. S.Vennilamalalai
5. N.Muthu Krishnan
6. R.Sidheswaran
7. V.C.Palanisamy
8. M.P.Syed Ghouse
9. R.G.Sathiyamoorthy
- 10.M.Natarajan
- 11.B.Mohammed Ismail,
- 12.R.Jacob Balachandran
- 13.T.Vijayasekaran
- 14.J.Lakana Kumaran
- 15.K.Ganesan
- 16.A.Dharma Veeran
- 17.M.Dharmalingam
- 18.G.Balakrishnan
- 19.V.Elangovan

.. Petitioners

Vs.

- 1.The Secretary to Government,
Highways and Small Ports Department,
Fort St. George, Chennai - 600 009.

- 2.The Chief Engineer,
Highways Department,
Chepauk, Chennai - 5.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to count the petitioners service period from 1972, 1973 to 2006 as qualifying service and to calculate the period for pension.

For Petitioners : Mr.S.Kolandaisamy
For Respondents : Mr.B.Anand
Government Advocate

O R D E R

Heard Mr.S.Kolandaisamy, learned counsel for the petitioners; Mr.B.Anand, learned Government Advocate for the respondents and perused the materials available on record. It is represented that the first petitioner is not interested to pursue the Writ Petition and the petitioners 2, 8 and 9 have passed away during the pendency of the Writ Petition and no steps have been taken to substitute the legal-heirs of the deceased petitioners.

2. This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents to count the petitioners' service period from 1972, 1973 to 2006 as qualifying service for pensionary benefits.

3. The case of the petitioners is that they were initially appointed as Road Inspectors in the year 1972 and 1973 on temporary basis and they were ousted from service in the year 1975, 1976 and there again in 2006, pursuant to G.O.Ms.No.223, Highways Department, dated 02.11.2006, they were reappointed and thereafter retired from service on attaining the age of superannuation.

4. The learned counsel for the petitioners submitted that though the writ petitioners were reappointed in the year 2006, they were terminated from service in 1975, 1976 only for want of vacancies and not on the part of the petitioners and hence, the entire service of the petitioners from 1975 and 1976 has to be taken into account for the purpose of pensionary benefits.

5. Per contra, the learned Government Advocate submitted that as per the Rules, the employees who have been put in more than 10 years of service are only entitled to get pension, but in the instant case, the petitioners have served for a period of three years, two years and 9 months and therefore, their case cannot be considered by the respondents.

6. It is not in dispute that the original appointment was only on temporary basis and the order of termination in the year 1975 and 1976 was not challenged by the petitioners in the manner known to law and after reappointment in the year 2006, they retired from service on attaining the age of superannuation. It is also not in dispute that as per the Rules, the petitioners have not eligible to get pension and their non-service between 1975 to 2006, could not be calculated for the purpose of pensionary benefits.

7. In such view of the matter, the Writ Petition fails and the same is dismissed. There is no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Secretary to Government,
Highways and Small Ports Department,
Fort St. George, Chennai - 600 009.

2.The Chief Engineer,
Highways Department,
Chepauk, Chennai - 5.

+1cc to Government Pleader SR.NO.73495

+1cc to Mr.S.Kolandaisamy, Advocate SR.NO.73342

SJ(CO)

sm:19.11.2018

W.P. No.4448 of 2011

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