

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.955 & 956 of 2013
and M.P.Nos.1,1,2 and 2 of 2013

P.Kulothungan ... Appellant in W.A.No.955 of 2013

J.Krishnamoorthy ... Appellant in W.A.No.956 of 2013

Vs.

- 1.The Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St. George, Chennai-600 009.
- 2.The Engineer-in-Chief (Buildings),
Chief Engineer (Buildings)
Chennai Region, And Chief Engineer (General)
Public Works Department,
Chepauk, Chennai-600 005.
- 3.The Secretary,
Tamil Nadu Public Service Commission,
Greens Road, Chennai-600 006. Respondents in both W.As.

Writ Appeals filed under Clause 15 of Letters Patent
against the common order dated 05.02.2013 passed by this Court
in Writ Petition Nos.9968 of 2012 & 10638 of 2012.

prayer in WP.Nos.9968 of 2012 & 10638 of 2012.

Petition Under Article 226 of the Constitution of India
praying for the Writ of Certiorari mandamus to Call for the
records pertaining to G.O.M.No.69 dated 18.2.2002 passed by
first respondent quash that portion of the G.O.M.No.69 dated
18.2.2002 which determined the petitioner Seniority from
23.3.2001 and direct the respondents 1 and 2 to redetermine/
refix the Seniority of the petitioner from the date of the
regularization which is 7.11.1983 and add the name of the
petitioner in the Provisional Seniority List of Promoters which
is circulated vide Circular dated 24.11.2009.

For Appellants : Mr.P.Ganesan
for M/s.C.S.Associates
For Respondents : Mrs.A.Srijayanthi, for RR1 & 2
Special Government Pleader
Ms.C.N.G.Niraimathi, for R3

COMMON JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The appellants in the intra court appeals were regularized in service pursuant to the order in G.O.Ms.No.69 dated 18 February, 2002. Since retrospective regularization was not given, the appellants filed individual writ petitions before the writ Court. The learned Single Judge dismissed the writ petitions on the ground of delay and laches. Feeling aggrieved, the appellants are before this Court.

2.The learned counsel for the appellants submitted that the appellants would be satisfied in case a direction is given to the respondents to consider their earlier service for the purpose of calculating total service for fixing pension. According to the learned counsel, Rule 11 of the Tamil Nadu Pension Rules provide for counting such service for pension.

3. We have also heard the learned Special Government Pleader on behalf of the respondents 1 and 2.

4.The appellants were initially appointed temporarily. It was an appointment under Rule 10 (a)(i) of Tamil Nadu State and Subordinate Service Rules. Their services were later regularized pursuant to the order in G.O.Ms.No.69, dated 18 February, 2002. It is a matter of record that for more than five years, there was no challenge to the said Government Order at the instance of the appellants. It was only long thereafter, the appellants submitted representation for giving them the seniority taking into account the initial appointment. The learned Single Judge having found that the writ petitions were filed after considerable delay, rightly negatived the prayer with an observation that such stale claims cannot be entertained after a considerable period. We are in full agreement with the views expressed by the learned Single Judge.

5. The other question is as to whether the appellants should be permitted to approach the Government with a request to count their past service for fixing pension taking into account Rule 11 of the Tamil Nadu Pension Rules.

6. We grant liberty to the appellants to submit a comprehensive representation to the first respondent through

proper channel to give them the benefits of Rule 11 of the Tamil Nadu Pension Rules taking into account their initial service. In case, any such representations are given, the same shall be considered and disposed of by the first respondent taking into account Rule 11 of the Tamil Nadu Pension Rules. Such exercise shall be completed within a period of four months from the date of receipt of individual representations.

The intra court appeals are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

gms/abr
To

- 1.The Secretary to Government of Tamil Nadu,
Public Works Department,
Fort St. George, Chennai-600 009.
- 2.The Engineer-in-Chief (Buildings),
Chief Engineer (Buildings)
Chennai Region, And Chief Engineer (General)
Public Works Department,
Chepauk, Chennai-600 005.
- 3.The Secretary,
Tamil Nadu Public Service Commission,
Greens Road, Chennai-600 006.

+1cc to M/S.C.S. ASSO. Advocate, S.R.No. 16807
+1cc to the Government Pleader, S.R.No. 17136 & 17137

W.A.Nos.955 & 956 of 2013

GMI (CO)
TR(26/03/2018)

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