

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.27409 of 2018

M.Paul Perinbam

... Petitioner

vs.

1.The Secretary,
Government of Tamil Nadu,
Tamil Development, Information &
Public Relations Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director cum Joint Secretary,
Government of Tamil Nadu,
Tamil Development, Information &
Public Relations Department,
Secretariat, Fort St. George,
Chennai - 600 009.

3.The Public Relation Officer,
Tamil Development, Information &
Public Relations Department,
Krishnagiri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Declaration, declaring Rule 41 A (C) of Tamil Nadu State and Subordinate Service Rules 1984 as null and void and unconstitutional and ultra virus and consequently direct the respondents to permit the petitioner to join duty and function peacefully at the office of the respondent with continuity of service along with all monetary benefits for the service rendered.

For Petitioner : M/s.T.Aananthi

For Respondents : Mr.T.N.Rajagopalan,
Government Pleader.

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

Petitioner has sought for a declaration, declaring Rule 41 A (C) of Tamil Nadu State and Subordinate Service Rules, 1984, as null and void, unconstitutional and ultravires and consequently, for a direction to the respondents, to permit the petitioner to join duty and function peacefully at the office of the respondent with continuity of service along with all monetary benefits.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. Prayer sought for in the instant writ petition is of two parts. First prayer for declaration, does not survive as Rule 41-A(C) of Tamil Nadu State and Subordinate Service Rules 1984 have been repealed and Tamil Nadu Government Employees Conditions of Service Rules 2016 has been enacted; (ii) second prayer is in the nature of a mandamus, which also cannot be granted, for the following reasons.

4. As contemplated under Rule 41-A(C), then existing Tamil Nadu State and Subordinate Service Rules 1984, request of the petitioner for continuation in service, has been rejected, vide Proceedings No:15029/Ni.2/2013, dated 05.11.2013, of the Director, News and Public Relations Officer and Officiating Deputy Secretary, Chennai, and that the same has been challenged in W.P.No.1454 of 2015.

5. Prayer sought for in W.P.No.1454 of 2015, is hereunder:-

"To call the records on the file of the 2nd respondent in connection with his proceedings No.15029/Nir2/2013, dated 05.11.2013 and quash the same and consequently direct the respondent to accept the representation dated 28.10.2013 withdrawing the resignation dated 28.06.2013 and permit the petitioner to join duty with continuity of service."

6. After considering the rival contentions, W.P.No.1454 of 2015, has been dismissed on 03.11.2016, which came to be challenged in W.A.No.4 of 2017.

7. A Hon'ble Division Bench of this Court, vide order dated 23.03.2018 in W.A.No.4 of 2017, by observing that there is no error or infirmity in the impugned order of the writ court, left to the discretion of the Government to consider the case of the petitioner sympathetically and pass appropriate orders, in accordance with law, within a time frame.

8. Accordingly, Government have considered the representation and by Government Letter No.18398/Ni2/2/2017, dated 13.08.2017, of the Secretary to the Government, Tamil Development and News Department, Secretariat, Chennai, rejected the case of the petitioner.

9. Government Letter No.18398/Ni2/2/2017, dated 13.08.2017, of the Secretary to the Government, Tamil Development and News Department, Secretariat, Chennai, reads thus:-

"Tamil Development & News Dept.
Secretariat,
Chennai - 9.

Govt. Letter No.18398/Ni2/2/2017 dated 13.08.2017

From

R.Venkatesan, IAS
Secretary to Government

To

Thiru M.Paul Pandian,
S/o.Manickam,
Orathur,
Sithamallee Post,
Needamangalam Taluk,
Thiruvarur District.

Sir,

Sub: Case - News & Public Relation Dept., o/o.
Krishnagiri District Guide -
Mr.Paul Pandian at Moodarinagar Rajaji
Memorial House, Thorappallai,
W.A.No.4/2017 of High Court of Madras - judgment
dated 23.03.2018 orders implementation - reg.

Ref: (1) Proceedings No.15029/Ni.2/2013 dated 05.11.2013
of the Director, News and Public Relation
department.

(2) Judgment dated 03.11.2016 in W.P.No.1454/2015
of the High Court of Madras.

(3) Writ Appeal dated 08.12.2017 at High Court
Madras

(4) Judgment dated 22.03.2018 in W.A.No.4/2017 at
High Court, Madras.

You, served as Guild at Moodaringnar Rajaji Memorial, Thorappadi under the control of PRO, Krishnagiri had resigned from service for personal reasons, consequently as per Ref. 1 the resignation was ordered as accepted by the Government. As against which you filed Writ Petition and the same was dismissed on 03.11.2016.

2. Your request was carefully examined again as per the judgment dated 23.03.2018 made in W.A.No.4 of 2017 which was preferred by you at High Court, Madras.

3. On consideration, it is held that your relationship as employee leased to exist upon acceptance of resignation and as per the provisions of Rule 50 (2) Tamil Nadu Government Employees Conditions of Service Rules 2016 your request is contrary and hence your request to join duty again cannot be considered favourably and hence it is rejected.

Yours truly,

For Secretary to Government."

10. Case of the petitioner has been considered and rejected. Second prayer made in W.P.No.27409 of 2018, directing the respondents to permit the petitioner to join duty and function peacefully in the office of the respondent with continuity of service, cannot be granted as it would be amounting to erasing the decision of this Court. Mandamus cannot be granted. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

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Government of Tamil Nadu,
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2.The Director cum Joint Secretary,
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3.The Public Relation Officer,
Tamil Development, Information &
Public Relations Department,
Krishnagiri District.

+1cc to the Government Pleader, S.R.No.71811

W.P.No.27409 of 2018

VSNI (CO)
GN(14/11/2018)



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