



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.17437 of 2018

and

W.M.P. (MD) No.15338 of 2018

K.K.Karuppaiah

... Petitioner

Vs.

1.The Director (TANHODA),
Department of Horticulture,
Cheppauk, Chennai-5.

2.The Deputy Director of Horticulture,
Department of Horticulture,
Pudukkottai, Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to retain the petitioner in service till the completion of 60 years of his age ie., on 31.08.2020 by considering the petitioner's representation dated 10.07.2018.

For Petitioner : Mr.K.Baalasundharam
For Respondents : Mr.D.Muruganantham
Additional Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the respondents to retain the petitioner in service till the completion of 60 years of his age ie., on 31.08.2020 by considering the petitioner's representation dated 10.07.2018.

2.Heard, Mr.K.Baalasundharam, learned counsel for the petitioner and Mr.D.Muruganantham, learned learned Additional Government Pleader, appearing for the respondents.

3.The learned counsel for the petitioner would submit that, the petitioner has been working as Farm Labour for several years, which is a last grade service category and therefore, if the relevant Rule is applied, the petitioner's superannuation is only at the age of 60 years. Accordingly, the date of superannuation of the petitioner



would fall only on 31.08.2020. However, the petitioner is in apprehension that by fixing the superannuation age of the petitioner at 58 years, he will be superannuated on 31.08.2018. Therefore, on such apprehension, the petitioner has approached this Court.

4. The learned counsel for the petitioner would rely upon a recent decision of this Court, in a similar circumstances made in W.P.(MD)No.10694 of 2017 dated 02.03.2018 in S.P.Karuppaiah Vs The Director (TANHODA), Department of Horticulture, Chennai-5 and another, where this Court has passed the following order:

"Heard the learned counsel appearing on either side.

2. By consent of both parties, this writ petition is taken up for final disposal.

3. The petitioner is working as casual Labour in the Department of Horticulture. The petitioner is apprehensive that he will be prematurely retired at the age of 58 years.

4. The contention of the petitioner is that for Farm Labour the age of retirement is 60.

5. This is not disputed by the learned Government Advocate appearing for the respondents.

6. Therefore, a direction is issued to the respondents to retain the petitioner in service till the completion of 60 years that is 30.06.2019.

7. This writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed."

5. By relying upon the said order, the learned counsel for the petitioner would submit that since the superannuating age of the petitioner was only 60 years, in that case, the petitioner is entitled to serve till 2020, ie., beyond 30.08.2018.

6. I have heard, Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents, who would not dispute the earlier order passed by this Court, dated 02.03.2018, where a similarly placed person has been given the relief of his superannuation at the age of 60 years and beyond 58 years, he was permitted to continue to work in the job till the age of 60. This Rule position is also very clear that, if he is the last grade servant, the superannuation will be at 60 years, as per the Tamil Nadu Basic Service Rules.

7. When that being the Rule position, the contention raised by the petitioner can be accepted and also by accepting the same, a learned Judge of this Court has passed an order referred to above in W.P.(MD)No.10694 of 2017. In that view of the matter, this Court is inclined to pass the following order:-

"that the petitioner shall be permitted to continue to work beyond 31.08.2018 and up to 31.08.2020, the date on which, he will superannuate, at the completion of 60 years."



8. With this direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-II)

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/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Director (TANHODA),
Department of Horticulture,
Cheppauk, Chennai-5.

2. The Deputy Director of Horticulture,
Department of Horticulture,
Pudukkottai, Pudukkottai District.

+1cc to Special Government Pleader, SR.No. 77260

+1cc to M/S.K.Baalasundharam, Advocate SR.No. 77104

W.P. (MD) No. 17437 of 2018

03.08.2018

pnn

JM/KAK/SAR 2/27.08.2018/3P/5C