

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.42302 of 2016

Dr.Samuel Johnson

.. Petitioner

Vs.

- 1.The Government of Tamil Nadu
Rep by its Secretary to Government,
Animal Husbandry, Dairying & Fisheries Department,
Secretariat, Chennai - 9.
 - 2.The Dean,
Tamil Nadu University & Veterinary & Animal Sciences,
Madhavaram, Chennai - 51.
 - 3.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.
- .. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to sanction two thirds of pension and gratuity, by way of sanction of compassionate allowance in the light of the provisions contained in first Proviso to Rule 40 of the Tamil Nadu Pension Rules, keeping in view the service rendered by the petitioner in the respondent department from 16.01.1962 to 01.03.1978.

For Petitioner : Mr.Ravikumar Paul, Senior Counsel
for M/s.Paul & Paul
For RR1 & 3 : Mr.N.Inbanathan
Additional Government Pleader
For R2 : Mr.V.Gangatharan

O R D E R

The relief sought for in this writ petition is for a direction to the first respondent to sanction two thirds of pension and gratuity, by way of sanction of compassionate allowance in the light of the provisions contained in the first Proviso to Rule 40 of the Tamil Nadu Pension Rules, keeping in view the service rendered by the petitioner in the respondent department from 16.01.1962 to 01.03.1978.

2. The petitioner joined service as the Veterinary Officer on 16.01.1962 in the Animal Husbandry Department and was deputed to the King Institute, Guindy (Medical Dept.) on lien by the Dean, Madras Veterinary College (under the Tamil Nadu Agricultural University, Coimbatore) and was later promoted as Senior Veterinary Officer in the year 1974. While serving as Senior Veterinary Officer, he was granted eligible leave from 01.03.1978 to 31.08.1978 by the Government and was permitted to visit his brother in USA for a period of 6 months, subject to the condition that he should not seek employment outside during his stay abroad and should return to India and he should execute a bond in the prescribed form. Thereafter, he applied for study leave/Extraordinary Leave for a period of 3 years from 01.09.1978 to 31.08.1981 for undergoing post graduate studies. By order 18.04.1980, the Dean of Tamil Nadu Agricultural University has refused the leave and called upon the petitioner to return to India and rejoin duty. But the petitioner was unable to rejoin duty due to domestic/financial problems. However, the bond amount for his failure to join duty was paid fully with interest from his GPF amount. It is stated that the third respondent has issued a show cause notice dated 25.01.1983 in respect of unauthorised absence from 01.09.1978. Thereafter, the petitioner submitted his explanation on 20.02.1983 and requested for voluntary retirement, but the same was not accepted. The third respondent passed final order in No.R4/5910/82 dated 15.05.1983 imposing the penalty of 'Removal from service', with retrospective effect from 26.02.1978. In this regard, the petitioner has made representations to the third and first respondents on 19.01.2016 and 14.03.2016, respectively. As both these representations did not evoke any response, the petitioner is before this Court.

3. Heard the learned counsel appearing on both sides.

4. Considering the facts and circumstances of the case and the submissions made on either side, this Court, without expressing any opinion on the merits of the representation, directs the respondents to consider the petitioner's representations dated 19.01.2016 and 14.03.2016 and pass appropriate orders, on merits and in accordance with law and in the light of the provisions contained in first Proviso to Rule 40 of the Tamil Nadu Pension Rules, keeping in view the service rendered by the petitioner in the respondent department from 16.01.1962 to 01.03.1978, after issuing notice to the petitioner and the persons interested in this regard and also affording them due opportunity of personal hearing within a period of six weeks from the date of receipt of a copy of this order.

5.With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsi

To

- 1.The Secretary to Government,
Animal Husbandry, Dairying & Fisheries Department,
Secretariat, Chennai - 9.
- 2.The Dean,
Tamil Nadu University & Veterinary & Animal Sciences,
Madhavaram, Chennai - 51.
- 3.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 641 003.

+1cc to M/s.Paul & Paul , Advocate SR.No. 42937

+1cc to Mr. V.Gangatharan, Advocate SR.No. 41694

+1 cc to Government Pleader Sr.No. 42513

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A.SK(06/06/2019)

सत्यमेव जयते

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