

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.11.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.20547 AND 21501 OF 2019

AND

W.M.P.NO.19794, 20709, 25726, 28131 AND 28138 OF 2019

1.K.Selvam ... Petitioner in W.P.No.20547 of 2019

2.C.Gunasekaran ... Petitioner in W.P.No.21501 of 2019

vs

1. The Government of Tamil Nadu,
rep by the Secretary to Government,
Personnel and Administrative Reforms Department,
Fort St. George, Chennai-600 009.
2. The Director of Medical Education,
Chennai-600 010.
3. The Director,
King Institute of Preventive Medicine and Research,
Guindy, Chennai-600 032.

... Respondents in both W.Ps

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying to pass orders, directions, writs in particular a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Na.Ka.No.1517/Ni-4/2019 dated 09.05.2019 and quash the same in so far as the petitioner is concerned and direct the respondents to continue him in service till he attain the age of 60 years and retire him on attaining the age of 60 years with all service benefits.

For Petitioners : Mr.P.Rajendran
(In Both W.Ps)

For Respondents : Mr.A.N.Thambi Durai
(In Both W.Ps) Special Government Pleader

COMMON ORDER

The case of the petitioners is that they were appointed as Animal Attendant at the King Institute of Preventive Medicine & Research, Guindy, Chennai-60032 vide Na.Ka.No.15528/Ni-3/87 dated 23.10.1987 and they joined duty on 28.10.1987 and in the appointment order, it is specifically stated that the post of Animal Attendant belonged to the Tamil Nadu Basic Service in the pay scale of Rs.450-720 (IV Pay Commission Scale of Pay) which was revised to 750-940 under the V pay Commission Scales of Pay issued under Go.Ms.No.666 by the Finance (Pay Commission) Department, dated 27.06.1989. The Director, King Institute of Preventive Medicine and Research, Chennai-32 has issued an order in Na.Ka.No.1517/Ni-4/2019 dated 09.05.2019 referring to the letter issued by the Director of Medical Education, Chennai, stating that the post of Animal Attendant falls under Branch-V-Miscellaneous, under the Tamil Nadu Medical Subordinate Service and therefore the age of retirement is 58 and the Animal Attendants whose names are mentioned in the said order would retire on attaining the age of 58 years. Then, the second respondent passed an impugned order to fix the petitioner's retired age as 58 years. As per the Fundamental Rule 56(1), every Government servant in the Superior service shall retire from service on the afternoon of the last day of the month on which he attains the age of 58 years and basic servants shall retire from service on attaining the age of 60 years. Therefore, the petitioners/Animal Attendants who belong to the Basic Service retired only at the age of 60 years. Hence, the present writ petitions are filed.

2.The learned counsel for the petitioners submitted that the petitioners were appointed as Animal Attendants in the year 1987 and the said appointment order clearly stated that the post of Animal Attendant belonged to the Tamil Nadu Basic Service as defined under Fundamental Rule 9 Subsidiary Definition (iii) and under Fundamental Rule 56(1), every Government servant in the Superior service shall retire from service on the afternoon of the last day of the month on which he attains the age of 58 years and basic servants shall retire from service on attaining the age of 60 years. Even then, the second respondent passed an impugned order to fix the petitioner's retirement age as 58 years and also submitted that Mr.N.Yasodha and Mr.S.Velu, who were working as Animal Attendants, retired at the age of 60 years. Therefore, the learned counsel prayed this Court to direct the respondents to permit the petitioners to continue in service till they attain the age of 60 years.

3.Mr.A.N.Thambi Durai, learned Special Government Pleader appearing on behalf of the respondents would submit that though the post of Animal Attendant carries the scale of pay of Rs.540-

720, it is governed by the Branch-V (Miscellaneous) Tamil Nadu Medical Subordinate Service, which has to be treated as superior Service. Therefore, the said post is not included in the Tamil Nadu Basic Service. He further submitted that the other officials at the Government Medical Colleges have been permitted to retire from service when they attain the age of 58 years, due to which the second respondent issued an impugned notice to the petitioners to retire on superannuation on attaining the age of 58 years. Therefore, he prays this Court to dismiss the writ petition.

4. Heard both sides and perused the documents placed on record.

5. It is seen that the petitioners were appointed as Animal Attendants in the year 1987 and their appointment order specifically stated that the post of Animal Attendant belonged to the Tamil Nadu Basic Service. As per Fundamental Rule 56 (1), every Government Servant in the superior service shall retire from service on the afternoon of the last day on the month in which they attain the age of 58 years and basic servants shall retire from service on attaining the age of 60 years. It is also seen that Mr.N.Yasodha and Mr.S.Velu who were working as Animal Attendants, retired at the age of 60 years.

6. Accordingly, the Writ Petitions are allowed and the respondents are directed to permit the petitioners to continue in service till they attain the age of 60 years. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Personnel and Administrative Reforms Department,
Fort St. George, Chennai-600 009.
2. The Director of Medical Education,
Chennai-600 010.

3. The Director,
King Institute of Preventive Medicine and Research,
Guindy, Chennai-600 032.

+1cc to the Government Pleader, S.R.No.92526

W.P.Nos.20547 and 21501 of 2019

NR (CO)
CS/12/02/2020



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