



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2019

CORAM

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.2876 of 2014

P.Thirunavukkarasu

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Fort St. George, Chennai.

2.The Director of School Education,
College Road, Nungambakkam, Chennai - 6.

3.The Chief Educational Officer,
Thanjavur District, Thanjavur.

4.The District Educational Officer,
Kumbakonam, Thanjavur District.

5.Shaukathul Islam (B.M.S) Higher
Secondary School represented by its
Correspondent, Valuthoor,
Papanasam Taluk, Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records from the fifth respondent and quash the order passed in அதிமு எண்.691/அ5/2012 dated 19.03.2012 by the fourth respondent consequentially direct the respondents 1 to 4 to sanction the pension and other retirement benefits to the petitioner taking into account his service as Post Graduate Assistant (Selection Grade) from 04.03.1981 to 31.12.1998 with effect from 31.12.1998 in the fifth respondent school by calling for the proposals from the fifth respondent.

For Petitioner : Mr.V.Chandrasekar

For Respondents : Mrs.S.Srimathy
Special Government Pleader



ORDER

The order of rejection dated 19.03.2012, rejecting the claim of the writ petitioner for grant of pension is under challenge in the present writ petition.

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2.The writ petitioner was appointed as Post Graduate Assistant in the fifth respondent School on 04.03.1981 and thereafter, on account of certain family problems, the writ petitioner had resigned the job on 31.12.1998.

3.Learned Counsel for the writ petitioner states that the petitioner had served about 17 years with clean records and therefore, the pension benefits as well as the monthly pension is to be paid to the writ petitioner. However, the writ petitioner admitted the fact that he had resigned his job on his volition and on account of certain family problems on 31.12.1998.

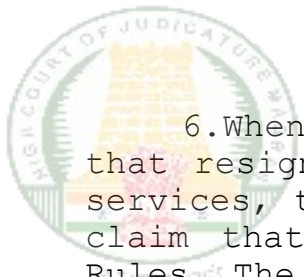
4.The writ petitioner had resigned his job on 31.12.1998. But, the writ petition itself is filed in the year 2014, after a lapse of 15 years from the date of resignation. Learned Counsel for the writ petitioner made a submission that the Division Bench of this Court held that in cases of resignation on medical grounds, the pensionary benefits are to be granted. However, subsequent judgments of the Hon'ble Supreme Court of India clarified that the resignation amounts to forfeiture of past services and therefore, the employees who have resigned their jobs is not entitled to get the pensionary benefits.

5.This Court also elaborately considered the issues in respect of grant of pension for the resigned employees. As per Rule 23 of the Tamil Nadu Pension Rules, 1978, resignation amounts to forfeiture of past services. Rule 23 reads as follows:

"23.Forfeiture of service on resignation - (1)
Resignation from a service or post entails forfeiture of past service:

Provided that a resignation shall not entail forfeiture of past service if it has been submitted to take up with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

(2) Interruption in service in a case falling under the proviso to sub-rule (1), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to the Government servant."



6. When the Tamil Nadu Pension Rule categorically enumerates that resignation from a service or post entails forfeiture of past services, the writ petitioner now after a lapse of many years cannot claim that he has to be granted with pension under the Pension Rules. The claim of the writ petitioner is not only belated, but he is not entitled for pension in view of the fact that he has resigned his job and his resignation was accepted and he was relieved on 31.12.1998. The counter filed by the respondent also reveals that the writ petitioner had resigned the post on 31.12.1998 on his own volition. This being the factum, the writ petitioner is not entitled for pension or other pensionary benefits in view of Rule 23 of the Tamil Nadu Pension Rules. Thus, there is no infirmity as such in respect of the impugned rejection order.

7. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai.

2. The Director of School Education,
College Road, Nungambakkam, Chennai - 6.

3. The Chief Educational Officer,
Thanjavur District, Thanjavur.

4. The District Educational Officer,
Kumbakonam, Thanjavur District.

+1 CC to M/s.V.CHANDRA SEKAR, Advocate (SR-82479[F] dated
20/08/2019)

+1 CC to M/s.SPL GP (SR-82414[F] dated 20/08/2019)

W.P.[MD]No.2876 of 2014
19.08.2019

MR

MS/03.09.2019/3P.7C