

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.9233 of 2020

Dr.Samuel Johnson
No.33/2, First Street
Secretariat Colony, Beraca Road
Kellys, Chennai 600 010.

...Petitioner

Vs.

1. The Government of Tamil Nadu
rep.by its Secretary to Government
Animal Husbandry, Dairying and
Fisheries Department, Secretariat
Chennai 600 009.
2. Tamil Nadu University of Veterinary &
Animal Sciences, Madhavaram,
Chennai 600 051.
3. The Registrar, Tamil Nadu Agricultural
University, Coimbatore - 641 003.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuance of the order in No.L.O/W.P.42302/2016 dated 20.01.2020 passed by the 3rd respondent and quash the same, and consequently direct the 3rd respondent to sanction compassionate allowance to the petitioner under Rule 40 of the Tamil Nadu Pension Rules and pass such other orders as this Hon'ble Court deems fit and proper.

For Petitioner : Mr.S.Prabhakaran

For Respondents : Mr.P.V.Selvakumar
Government Advocate for R1

ORDER

(The matter is taken up through web hearing)

The case of the petitioner is that he was a Veterinary Graduate joined as a Veterinary Officer in 1962 at Veterinary Hospital in Mayuram, now Mayiladuthurai. According to him, subsequently he was posted to King Institute of Preventive Medicine, Guindy in 1962 and he was promoted thereafter as Senior Veterinary Officer in 1974. In 1978, according to the petitioner he was granted eligible leave by the Government from 01.03.1978 to 31.08.1978 permitting him to visit his brother who was at that time at the United States of America (U.S.A). According to him, he was relieved on 01.03.1978 with certain conditions.

2. Thereafter, it appeared that the petitioner had applied for leave for three years on 18.04.1980 for undergoing postgraduate studies. However, his request for taking leave was refused by the competent authority and he was directed to rejoin duty on 10.05.1980 without fail. Since the petitioner did not rejoin duty, a show cause notice was issued on 25.01.1983 seeking his explanation for unauthorised absence with effect from 01.09.1978. The petitioner appeared to have submitted his representation on 20.02.1983.

3. Not satisfied with the lame explanation by the petitioner, the competent authority removed him from service on 15.05.1983 with effect from 25.02.1978. While the matter stood thus, the petitioner had approached the respondents in 2016 seeking for compassionate allowance under Rule 40 of the Tamil Nadu Pension Rules and since his representation was not disposed of, he approached this Court in W.P.No.42302 of 2016.

4. The writ petition was disposed of by this Court on 29.04.2019 directing the respondents to consider his representation and pass orders. Thereafter the petitioner was called for a personal hearing on 10.12.2019 which was stated to be complied by the petitioner.

5. Finally, vide proceedings dated 20.01.2020, the third respondent rejected the claim of the petitioner. Therefore the present writ petition is filed questioning the rejection order.

6. The learned counsel appearing for the petitioner would submit that as per the provisions of the Tamil Nadu Pension Rules, the writ petitioner is entitled to be considered for compassionate allowance as the petitioner had not committed serious misconduct involving moral turpitude. According to the learned counsel, the rejection of the petitioner's claim suffers

from non application of mind and therefore the impugned order is liable to be interfered with.

7. At the time of admission itself, Mr.P.V.Selvakumar, takes notice for the first respondent.

8. The above narrative would unequivocally disclose that how the petitioner remained absent for decades and after lapse of extraordinary length of time, he chooses to approach the Government for grant of compassionate allowance under the provisions of Pension Rules. The conduct of the petitioner remaining unauthorisedly absent for years together exemplify a scant regard for the Conduct Rules for the Government Servants particularly in a case like this where the petitioner probably has spent his hey days outside India. At this ripe old age, not satisfied with his occupation in a better position, he has approached this Court and obtained and wrangled innocuous order directing the respondents to dispose of his representation, which direction has revived the illegitimate hope of the petitioner in getting some compensation from the Government.

9. This Court is conscious that the present impugned order is issued on the basis of a direction passed by this Court in the aforementioned Writ Petition dated 29.04.2019. Yet, in the circumstances of the case, this Court is thoroughly not inclined to show any indulgence to this petitioner who had managed to stay away from public responsibility for decades and then choosing time of his convenience to seek compassionate allowance. Compassionate allowance is not meant to be offered to such individuals who had been eking out a living all along to serve his own ends. The litigation is per se speculative and cannot be entertained.

10. Hence, this Court finds no infirmity in the rejection order passed by the third respondent and hence the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk/kst

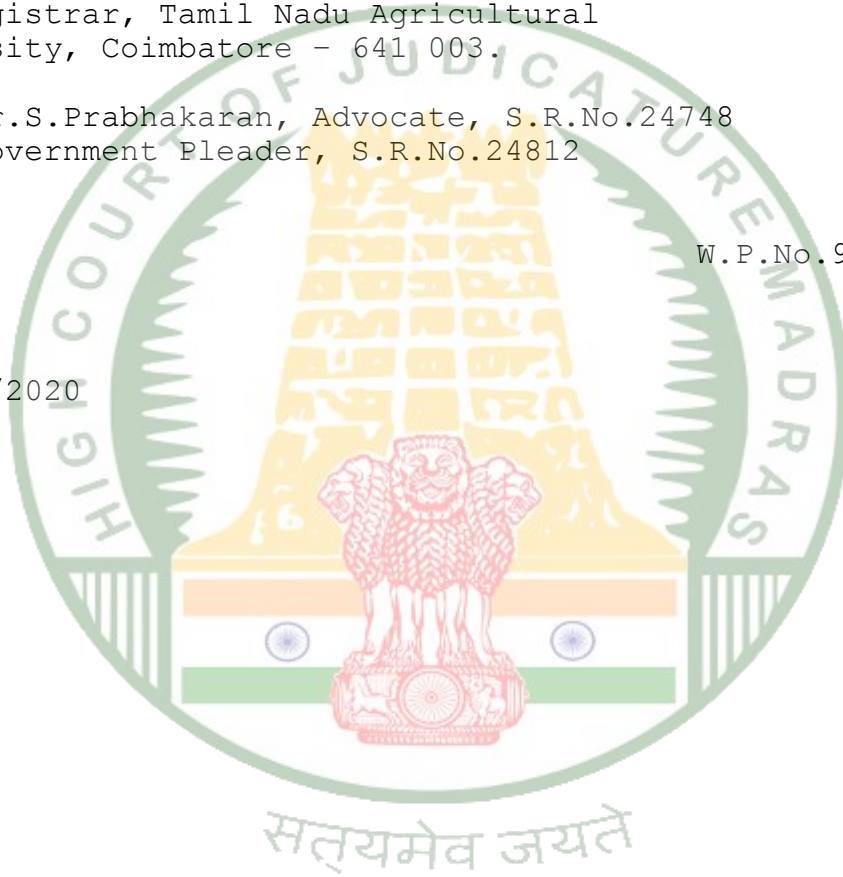
To

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+1cc to Mr.S.Prabhakaran, Advocate, S.R.No.24748
+1cc to Government Pleader, S.R.No.24812

W.P.No.9233 of 2020

VG II (CO)
KKV/13/08/2020



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