



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.19785 of 2019

L.R.Sudarshana Rao

... Petitioner

Vs.

1) The Chairman-cum-Managing Director,
TANGEDCO,
144, Anna Salai,
Chennai 600 002

2) The Superintending Engineer,
TANGEDCO,
K.Pudur, Race Course Road,
Madurai 625 006

3) The Superintending Engineer,
TANGEDCO,
Virudhungan Electricity System,
Virudhunagar District,
Virudhunagar.

... Respondents

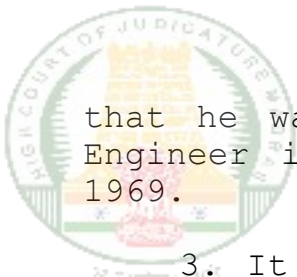
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to grant suitable pension to petitioner in view of his 15 years of service as per the pension rules, by considering his representation dated 09.07.2019, within the period stipulated by this Court.

For Petitioner	: Mr.S.Atham Ali
For Respondents	: Mr.T.Sakthikumaran, Standing counsel

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, to direct the respondents to grant suitable pension to petitioner in view of his 15 years of service as per the pension rules, by considering his representation dated 09.07.2019, within the period stipulated by this Court.

2. The petitioner claimed to have been appointed as Typist at Mettur Electricity System by the respondent TANGEDCO in the year 1954 and he claimed to have worked for some years in that station. Thereafter, he was transferred to Kodhayar System Office at Nagercoil in the year 1965 where, he gave birth of a female child. But unfortunately, the child was struggling due to some major illness. Fed up with the same, it seems that the petitioner could not attend the office regularly and in that point of time, it seems



that he was transferred to the office of Virudhunagar Divisional Engineer in the year 1966, where he claimed to have worked till 1969.

3. It is an admitted case of the petitioner that, after 1969, he has not worked with the respondent office, that means, he did not attend the office and he was continuously absent.

4. In this context, it is the claim of the petitioner that, his date of birth is 13.08.1936. Therefore, he had completed 58 years on 12.08.1994 i.e. the superannuation age. Hence, taking into account the period where he worked, he may be considered for giving pensionary and other retiral benefits.

5. In this context, the petitioner also has given a representation only on 09.07.2019 to the respondents and since the said representation has not been considered, he has chosen to file this writ petition.

6. Mr.S.Atham Ali, learned counsel appearing for the petitioner, would submit that, the petitioner is 82 years old as of now, and in this age, without getting any pensionary benefits, he is struggling like anything. Therefore, sympathetically, the representation, dated 09.07.2019 can be considered by the respondent TANGEDCO and whatever eligibility for the petitioner to get any pensionable benefits, the same can be calculated and be paid to the petitioner and to that effect, if a direction is given by this Court, the petitioner will be satisfied, he contended.

7. However, Mr.T.Sakthikumaran, learned standing counsel appearing for the respondents would submit, on instructions that, it is an admitted case that, the petitioner has not turned up and attended office since 1969, though he was having the superannuation age upto 1994.

8. Moreover, between 1969 and 2019, for about 50 years, nothing was coming from the petitioner and after 50 long years, he has now come forward with this representation.

9. After receipt of the representation, in fact, the respondent TANGEDCO verified whether any service records was available of the petitioner and nothing was available in the respondent office and in view of the same, on 03.09.2020, a communication has been sent to the petitioner stating that, as no service records was found available of the petitioner, since he himself admittedly left office 50 years back no orders could be passed on the request of the petitioner. However, in this regard, if the petitioner is having any record in support of his claim, the same may be forwarded to the respondent TANGEDCO. Despite the same, nothing was forthcoming from the petitioner. Therefore, the respondent TANGEDCO could not act further on the representation of the petitioner, dated



09.07.2019, he contended.

10. I have heard the learned counsel appearing for the petitioner. In the affidavit filed in support of the writ petition, at paragraph no.5, the petitioner has stated the following:

"5. I submit that in the said circumstances, I was transferred to Office of the Virudhunagar Divisional Engineer in the year 1966 and worked there till 1969 and subsequently continuously absent. My date of birth is 13.08.1936 and I have completed my 58 years on 12.08.1994. Thus, for the past several years I was repeatedly knocking the doors of respondents for getting service benefits but so far there is no reply from the respondents"

11. Therefore, it is an admitted case of the petitioner that, since 1969, he had not been working at the respondent office and he was admittedly absent since 1969 till his superannuation age.

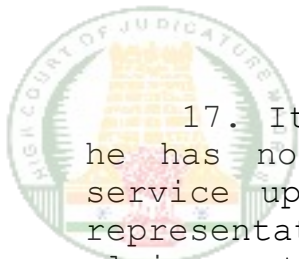
12. In this context, there is no proof or records to show that any disciplinary proceedings was initiated against the petitioner by the respondent TANGEDCO and whether the services of the petitioner was terminated or not, also not known.

13. However, if an employee is continuously absent for several years, no separate disciplinary proceedings need to be taken by the Employer and in this context, such a long absence can be recorded and accordingly, his service can be terminated.

14. Here in the case in hand, since it is an admitted case of the petitioner that, since 1969 he has not been attending office and after 50 years, only now, he has come forward with the present representation, dated 09.07.2019 and between 1969 and 2019, for the 50 long years, what did he do, why has he not continued his service and what are all the records available with him atleast to show that, he was working for some years in the respondent TANGEDCO i.e. from 1954 to 1969, nothing have been filed before this Court and admittedly, nothing also has been filed before the respondent TANGEDCO along with the representation.

15. In this context, the learned standing counsel appearing for the respondent TANGEDCO also, by relying upon their communication dated 03.09.2020, has submitted that, there is no service records pertaining to the petitioner is available with any of the offices, where the petitioner worked and therefore, no orders could be passed on the request of the petitioner dated 09.07.2019.

16. I have considered all these afore-stated facts and the claim and counter claim made by both sides.



17. It is an admitted case on the part of the petitioner that, he has not attended the office from 1969, though he has got a service upto 1994. After 50 years, now, he has come out with a representation asking for pensionary benefits. In support of his claim, not even a single paper has been filed before this Court, nor, has been sent to the respondent TANGEDCO. On the side of the respondents also, they claimed that no service records of the petitioner is available.

18. After such long years, we cannot find fault with the respondent TANGEDCO, as to why the service record of the petitioner has not been maintained properly. No one can expect that the service records of an employee, who himself has not cared of that sake, for 50 long years, can be expected to be protected by the employer for the purpose that, after 50 years or 60 years, the employee would come and break up the issue and seek some pensionable benefits.

19. Therefore, there is no justification on the part of the petitioner to make such a belated claim on 09.07.2019 i.e. after 50 years, since he has left the service admittedly, that too, bereft of any documents and service record. Therefore, this Court is not inclined to give any Mandamus as prayed for by the petitioner.

20. Since the petitioner is a senior citizen of 82 years of age and since he has raised a sympathy ground in the writ petition, this Court wanted to explore the possibility of lending any helping hand by passing judicial order to meet the ends of justice. However, in that attempt, this Court could not achieve anything because of the aforesaid facts. Hence, with no other option, except to dismiss this writ petition, this Court is inclined to dismiss the same. Accordingly, this writ petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

1) The Chairman-cum-Managing Director,
TANGEDCO, 144, Anna Salai,
Chennai 600 002

2) The Superintending Engineer,
TANGEDCO,
K.Pudur, Race Course Road,
Madurai 625 006

3) The Superintending Engineer,
TANGEDCO,
Virudhunganar Electricity System,
Virudhunagar District,
Virudhunagar

+1 CC to M/s.T. SAKTHIKUMARAN, Advocate (SR-17633[F]
dated 21/09/2020)

W.P. (MD) No.19785 of 2019
18.09.2020

PU(CO)
KB(03.12.2020) 5P 5C