



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.19941 of 2015

and

M.P (MD).No.2 of 2015

WEB COPY

J.K.Subbiah

... Petitioner

-Vs-

1.The Principal Accountant General,
(Accounts and Entitlement),
361, Anna Salai, Chennai 18.

2.The Accounts Officer,
The Principal Accountant General Office,
(Accounts and Entitlement),
361, Anna Salai, Chennai 18.

3.The Director of Pension,
259, Anna Salai,
Block No.3, 2nd Floor,
D.M.S.Compound,
Teynampet, Chennai.

4.The Secretary to Government,
School Education Department,
Governmnet of Tamil Nadu,
Fort St.George, Chennai -9

5.The Chief Educational Officer,
Madurai, Madurai District.

6.The District Educational Officer,
Palani, Dindigul District.

7.The Headmaster,
Government High School,
Kavunji, Kodaikanal Taluk,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made in Lr.No.AG(A&E)/Pen 10/3/Rev/21003639/11-12/2/112394 dated 04.10.2011 issued by the second respondent and quash the same and consequently, direct the respondents to pay arrears of pension from 13.06.1968 to till date with interest and subsequent monthly pension besides gratuity payable to the petitioner.



For Petitioner
For Respondents

: Mr.D.Sadiq Raja
: Mrs.S.Srimathy
Special Government Pleader
for R3 to R7
Mr.P.Gunasekaran
for R1 & R2

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ORDER

The relief sought for in the present writ petition is to quash the order dated 04.10.2011 passed by the Principal Accountant General of Tamil Nadu declining the claim of the writ petitioner for grant of pension on the ground that the petitioner Mr.J.K.Subbiah resigned his post of Physical Education Teacher.

2.The petitioner states that, he was appointed as Lower Grade Physical Education Teacher at Government High School, Checkanurani on 14.08.1957. Thereafter, he worked as Physical Education Teacher till 08.08.1963 at M.Kallupatti Government High School, Madurai District. Thereafter, he was transferred. The writ petitioner met with an accident and got injury over both eyes and therefore, he was admitted in the hospital for treatment. Thus, the petitioner submitted a letter, dated 29.06.1970 resigning his post on health grounds. Thereafter, the writ petitioner has not taken any steps to redress his grievance, if at all existed. Contrarily, the present writ petition is filed in the year 2015 challenging the order of rejection, dated 04.10.2011.

3.The learned counsel for the petitioner states that the petitioner was giving several representations to the respondents and appearing before the respondents in person in order to get pension and pensionary benefits. He submitted representations to the respondents for more than 40 years, finally the impugned order is passed on 04.10.2011 and therefore, the writ petition is filed in the year 2015.

4.Interestingly, challenging the impugned order the writ petition itself is filed, after a lapse of four years from the date of passing of the impugned order. At every stage, there was an enormous delay. This apart, even as per the Old Tamil Nadu Pension Code, resignation entails forfeiture of his service. Thus, the petitioner is not entitled for pension even as per the Old Pension Code. Rule 23 of New Tamil Nadu Pension Rules 1978 also stipulates that resignation entails forfeiture of past service. The Hon'ble Supreme Court also categorically distinguished the difference between the retirement and resignation reported in **(2019) 4 SCC 479**. However, the facts in the present writ petition reveals that the petitioner admittedly resigned his post in the year 1970 and going on submitting representations for more than 4 decades, even the writ petition is filed after a lapse of four years from the date of passing of the impugned order.



5.This being the factum, the petitioner is not entitled for the relief of pension as he resigned his post and such resignation amounts to forfeiture of his services. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

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To

1. The Director of Pension,
259, Anna Salai,
Block No.3, 2nd Floor,
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