



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2020

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.5238 of 2015

and W.M.P. (MD)No.17466 of 2017

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M.Panchapakesan

... Petitioner

Vs.

1.The Accountant General
Office of the Principal Accountant General
(Accounts & Entitlement)
Tamilnadu, Annasalai, Chennai-10.

2.The Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai-9.

3.The District Collector,
Pudukottai District,
Pudukottai.

4.The Commissioner,
Panchayat Union, Avudiarkovil,
Pudukottai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the first respondent pertaining to its proceedings No.Pr.AG(A&E)/LEGAL Cell/WP(MD)17910/2013/2014-15/1342 dated 08.10.2014 and quash the same and consequently directing the respondents to sanction and disburse the eligible pension by calculating the period from 01.05.1966 to 20.05.1987 and by taking half of the service of the petitioner as per G.O.Ms.No.39 Rural Development and Panchayat (E5) Department dated 13.06.2011 along with the period from 21.05.1987 to 30.06.1991 and in the light of the order passed by this Court in W.P. (MD)No.16711 of 2013 within a stipulated time that may be fixed by this Court for the purpose of payment of all the terminal benefits including the computation of the pension, pension arrears and monthly pension with 18% interest per annum.

For Petitioner	: Mr.S.C.Herold Singh
For R1	: Mr.P.Gunasekaran
For R2 & R3	: Mr.C.M.Marichellaiah Prabhu, Additional Government Pleader.
For R4	: Mr.T.S.Mohamed Mohideen

**ORDER**

The relief sought for in the present writ petition is to quash the order dated 08.10.2014 passed by the first respondent with reference to the claim of the writ petitioner for grant of pension.

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2.The learned counsel appearing for the writ petitioner states that the petitioner is now aged about 87 years and pension has not been paid to him. He was working as part time Panchayat Clerk and subsequently served as Group Clerk on consolidated pay. The petitioner retired as Cashier on 30.06.1991. The contention of the writ petitioner is that he was regular employee and therefore, he is entitled for pension as per Tamil Nadu Pension Rules.

3.The learned counsel appearing on behalf of the respondents disputed the said contention by relying on the paragraph No.6 of the counter affidavit filed by the fourth respondent, which reads as under:

6.It is submitted that the petitioner joined as Part time Clerk in Avudaiyar Kovil Panchayat in the year 1966 and thereafter he was promoted as Junior Assistant in Kunnandarkoil with effect from 22.05.1987 and he was posted as cashier in Avudaiyar Kovil Panchayat right from 09.02.1990. The G.O.No.39 or G.O.No.77 speaks only on the persons who were regularised on service. A person who was regularised and who don't have a service to obtain pension is provided the benefit by taking into account 50% of his service rendered as part time Panchayat Clerk. In the case in hand the petitioner is not even regularised. He cannot equate himself with any other person who has got benefit out of the G.O. mentioned above. Admittedly, the petitioner got retired in the year 1991. Writ petition is filed in the year 2014. On the ground of laches the writ petitioner deserves dismissal. The Writ petitioner has not come forward with clean hand. The writ petitioner has suppressed all the material facts. It is for the petitioner to make an application for regularization when he was in service. Missing all the options now the petitioner had rushed to the Court, which is unsustainable. In similar suppression of the fact appeal has been preferred by the State.

4.The learned counsel for the respondents reiterated that the service of the petitioner was not even regularised and despite request, the petitioner has not produced the order or any document to prove that his services were regularised. In the absence of all those particulars, the respondents cannot consider the case of the writ petitioner for grant of pension.



5.The petitioner was retired on 30.06.1991 and the writ petition itself filed after lapse of about 24 years. Filing of writ petition after lapse of 24 years from the date of retirement itself is a latches and pension being a continuous cause of action. At least, the petitioner would have submitted all the relevant documents before the respondents for enabling them to consider his case. In the absence of establishing the fact that the petitioner's service was regularised, it may not be possible for the Authorities, even to send a pension proposal to the Accountant General of India.

6.Under these circumstances, the learned counsel for the petitioner states that the petitioner is having documents to establish his case. Thus, the petitioner is at liberty to submit all the relevant documents establishing the nature of the service rendered by him as well as the order of regularization passed by the competent Authorities enabling the respondent to consider the case of the petitioner. In the event of submitting all relevant documents and the necessary particulars, the fourth respondent is bound to consider the same and send necessary proposals to the Accountant General of India. In the absence of any such particulars, it may not be possible for the Authorities to take necessary steps.

7.In this view of the matter, the petitioner is at liberty to submit all the necessary particulars and documents. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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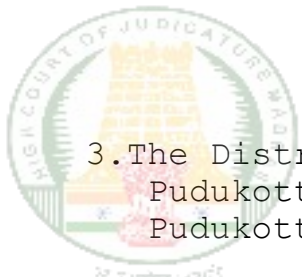
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Sub Assistant Registrar(CS)

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To

- 1.The Accountant General
Office of the Principal Accountant General
(Accounts & Entitlement)
Tamilnadu, Annasalai, Chennai-10.
- 2.The Secretary to Government,
Finance (Pension)Department,
Secretariat, Chennai-9.



3.The District Collector,
Pudukottai District,
Pudukottai.

4.The Commissioner,
Panchayat Union, Avudiarkovil,
Pudukottai District.

+1 CC to Mr.T.S. MOHAMED MOHIDEEN, Advocate (SR-23996[F] dated
04/12/2020)

+1 CC to SPL GP (SR-24295[F] dated 07/12/2020)

W.P. (MD)No.5238 of 2015
03.12.2020

VB (16.12.2020) 4P 7C