

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.02.2021
CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. No.20094 of 2020

Dr.A.Nirmal Nesa Kumar

...Petitioner

vs.

1.Corporation of Chennai
Rep by its Commissioner
Rippon Building
Chennai - 600 003

2.The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600 003

...Respondents

Writ petition filed under Article 226 of the Constitution of India for a writ of mandamus, directing the respondent to grant pension, to the petitioner, for the service rendered by him, as Medical Officer, in the first respondent Corporation from 15.08.1980 to 30.03.1995, on the basis of his representation dated 16.07.2019.

For Petitioner : Mr.W.R.Subhashini
For Respondents: Mr.S.Vaidheeswari

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O R D E R

The petitioner has come forward with the present writ petition for a direction to the respondent to grant pension, to the petitioner, for the services rendered by him, as Medical Officer, in the first respondent Corporation from 15.08.1980 to 30.03.1995, on the basis of his representation dated 16.07.2019.

2. The case of the petitioner is that he is entitled to notional and other benefits. The fact that the petitioner has submitted his resignation on 30.03.1995 is not in dispute. After verifying the records/antecedents of the petitioner, the

Corporation has relieved him from the services as could be seen from the proceedings dated 18.06.1996. The petitioner, under an erroneous impression that his resignation was not accepted till 01.07.1996, submitted that he wanted to withdraw his resignation, which was dated 21.11.2011, much after the resignation was accepted and approved in 1996. Once the resignation has been accepted and he has been relieved, he has come forward with the present writ petition that he has completed more than 10 years of service and that he is entitled to pension. He has also sent a communication on 21.11.2001, after the resignation was accepted in 1996 and yet another reminder on 16.07.2019 i.e. after 8 years from the date of original representation.

3. The learned counsel for the respondents, drew the attention of this court to Rule 6 of Chennai Corporation (Superior) Service Pension Rules, 1970, which is extracted below:

"6. Removal, dismissal or resignation from service. - (1) No retirement benefits may be granted to a member of the service who has been dismissed or removed from the service or who has resigned from the service :

Provided that if the circumstances of the case so warrant, the Government may grant to a member of the service who has been dismissed or removed from the service, a compassionate allowance not exceeding two-thirds of the retirement benefit which would have been admissible to him, if he had been invalidated and not dismissed or removed from the service.

(2) Where a member of the service is required to retire or resign from the service as a condition of his appointment under a statutory authority or other body, he shall be granted the retirement benefits to which he would have been entitled to, if he had been invalidated from the service and not resigned or retired."

In support of her contention, the learned counsel for the respondents relied on the judgment of the Hon'ble Supreme Court in Senior Divisional Manager, Life Insurance Corporation of India & Others vs. Shree Lal Meena reported in CDJ 2019 SC 371.

4. The petitioner himself has averred in paragraph 2 of the affidavit that his resignation has been accepted and approved on 18.06.1996 with effect from 13.03.1995. That being the case, the contention that the resignation was not at all accepted, may not be correct. In terms of the rule quoted by the respondents, the petitioner would not be entitled to the relief sought for by him.

5. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

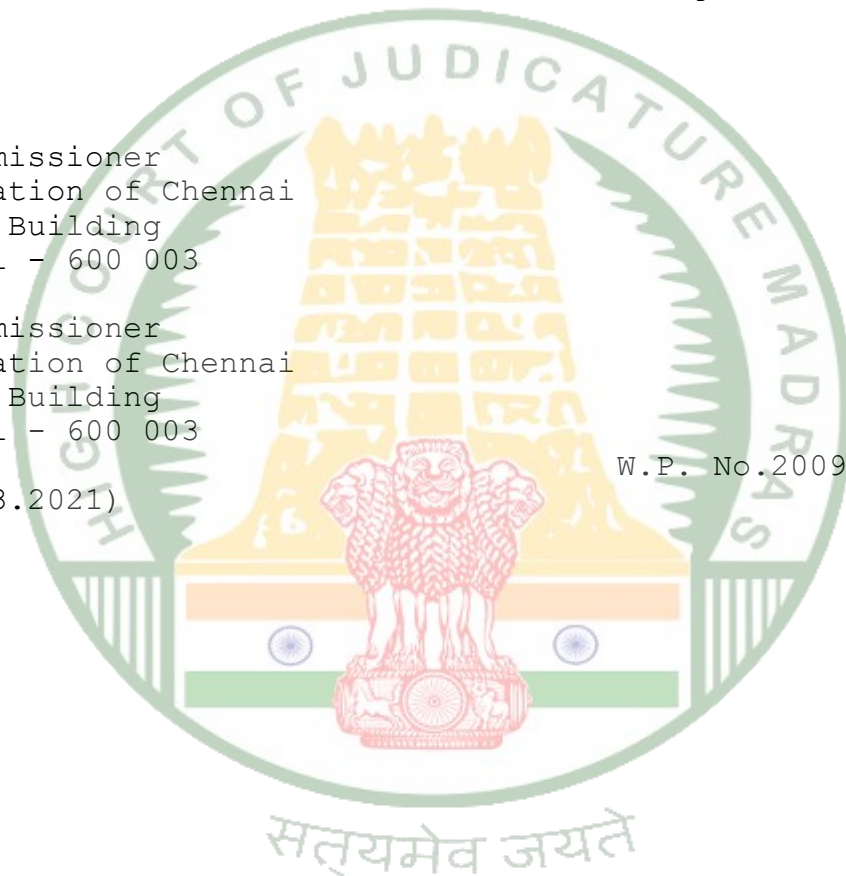
(Asr)
To

1.The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600 003

2.The Commissioner
Corporation of Chennai
Rippon Building
Chennai - 600 003

A.SK(15.03.2021)

W.P. No.20094 of 2020



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