



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.12.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.3097 of 2018

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V.Kanakaraj

...Petitioner

/Vs./

1.The Principal Secretary to Government of Tamilnadu,
Department of Social Welfare and
Nutritious Meal Programme Department,
Secretariat, Chennai.

2.The Director of Pensions,
259, Anna Salai,
3rd Block, 2nd Floor,
T.M.S.Premises,
Thenampettai,
Chennai.

3.The District Collector,
Pudukottai.

4.The Block Development Officer,
Office of the Panchayat Union,
Annavasal Post,
Illupur Taluk,
Pudukottai District.

...Respondents

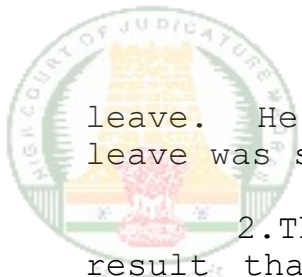
PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus thereby call for the records of the 2nd respondent in letter no 12249/2016/E2 dated 27.06.2016 and quash the same as illegal and arbitrary and in consequence there of direct the respondents to grant pensionary benefits to the petitioner by taking into account his 20 years of service.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

The petitioner had joined as Noon Meal Organizer in the Kadhavampatty Panchayat Union Elementary School on 17.03.1983. In November, 2002, the petitioner states that he had developed severe pain in the leg and hence applied for leave. He was granted 30 days



leave. He extended the leave periodically till 16.09.2003 and such leave was sanctioned.

2. Thereafter, he had not sought extension of leave, as a result that, by proceedings dated 19.01.2005, on account of his unexplained absence from 16.09.2003 onwards, he was called upon to show cause why his services not be terminated. In response, the petitioner sought leave to continue in service, but, according to the respondents, despite such request, did not show up at the work site. Thus, proceedings bearing Na.Ka.No.5199 of 2002/A8 dated 26.04.2006 came to be issued.

3. The tenor of the above proceedings is certainly unacceptable, insofar as, while the respondents refer to the regular absence of the petitioner as well as his non-response to official communications, in conclusion, they state that continuous non-compliance would result in a visit from the police to take appropriate action. This indicates gross high handedness on the part of the respondents.

4. While the employer is certainly entitled to insist upon regular and proper attendance of employees, and is also entitled to take action in cases of breach, action for non-compliance must be in accordance with law and not under threat of police action.

5. The petitioner takes benefit of this communication dated 26.04.2006 to state that he was so rattled by the threat, that he resigned his job admittedly tendering letter of resignation dated 17.05.2006. This letter has come to be accepted by the respondents. This is apparent from letters of the respondents in Na.Ka.No.5199 of 2002/A8 dated 17.07.2006 and 18.06.2007, wherein, having received and accepted the letter of resignation, the respondents called upon the petitioner to call on them for certain administrative purposes. There has been no compliance to these letters as well.

6. Representations were made by the petitioner on 11.06.2010, seeking re-instatement and thereafter on 01.06.2016 seeking pension. This representation is not placed before this Court, but is referred to in the impugned order which rejects the request and rightly so.

7. The sheer delay in the petitioner approaching the respondents for pensionary relief is in my view fatal to his case. The representation of the petitioner in 2010 seeking reinstatement was not pursued and the subsequent request for pension has been filed only in 2016, a decade after his resignation from service. The efforts are, in my view, half-hearted and deserve no consideration.

8. That apart, Rule 23 of the Tamil Nadu Pension Rules, 1978 provides that an employee would forfeit his service upon resignation, stating specifically that *resignation from a service or*



9. For the detailed reasons as above, I find no merit in this writ petition and the same thus stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

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

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+1 CC to M/s.SPL GP (SR-40447[F] dated 27/12/2021)

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23.12.2021

RD(02.02.2022) 3P 6C