



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.16621 of 2018

W.P. S.Syed Abubacker

... Petitioner

vs.

1.The State of Tamil Nadu
represented by the Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai -9.

2.The District Educational Officer,
Melur Educational District,
Melur,
Madurai District.

3.The Principal Accountant General (A & E),
No.361, Anna Salai,
Teynampet,
Chennai 600 018.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to calculate 50% of service rendered by the petitioner as Noon Meal Organizer from 15.09.1984 to 31.12.1995 for arriving net qualifying service for calculation pension and to revise the petitioner's pension and to grant all monetary and other attendant benefits and arrears within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.M.Saravanakumar
For R1 & R2	: Mr.D.Sadiq Raja
For R3	: Mr.P.Gunasekaran

O R D E R

The dispute in this case relates to the entries in the service register maintained in the Al Ameen Higher Secondary School (School). The School has not been arrayed as a respondent. The service register has been produced in original and in counter, the respondents object to the claim of the petitioner for reckoning 50% of the service rendered by him from 15.09.1984 to 31.12.1995 as a Noon Meal Organizer, on the ground that there are no service verification entries in the register.

2. A specific query was put to Mr.D.Sadiq Raja, learned Additional Government Pleader as to what the mechanism is to audit the service register and to pin down and correct lapses or errors

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therein. He frankly states that there is no such mechanism. According to him, the service register has to be taken at face value and the entries therein would be final and conclusive.

3. In the present case, the service register admittedly contains two dates: the date of appointment of the petitioner on 15.09.1984 and the date of retirement on 30.06.1997. The counter also states that verification entries are available with respect to the period 01.01.1996 to 30.06.1997 when he had been absorbed by the same school as a Watchman.

4. The specific argument of the respondent is that there are no other service verification entries in the interim, that is, for the period, 15.09.1994 and 31.12.1995 such as leave availed by the petitioner or others and this would invalidate the claim of the petitioner. I reject this argument for the following reasons.

5. The absence of an entry/entries cannot be taken to be conclusive in regard to the service of an employee, as, after all, the employee has hardly any control over the maintenance of the service register which remains within the exclusive domain of the employer.

6. It would be another matter altogether if aspersions are cast over the veracity of the service register or its maintenance. That is to say, if there were allegations that the register had been fudged or entries therein tampered. There is no such allegation in the present case.

7. Thus, to impose a negative covenant upon the register and state that the absence of service verification entries would invalidate the register in full, would, in my view, disbar an employee from a benefit that he is otherwise entitled to. After all, the register does contain the dates of appointment and retirement of the petitioner and these entries, which also constitute service verification entries, are not in dispute.

8. Let the representation of the petitioner be disposed, in light of the discussion and conclusions as aforesaid, within a period of twelve weeks from today. This Writ Petition is disposed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



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 Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
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- 2.The District Educational Officer,
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Melur, Madurai District.
- 3.The Principal Accountant General (A & E),
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+1 CC to M/s.SPL GP (SR-40213[F] dated 23/12/2021)

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-40184[F] dated 23/12/2021)

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NSN(CO)
KB(31.01.2022) 3P 6C