

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16170 of 2014

K.Mani

... Petitioner

Vs.

1. The District Collector,
(Panchayat Development) Section
Nilgiris District, Udagamandalam.
2. The Block Development Officer,
(Village Panchayat) Kothagiri Block,
Nilgiris District.
3. The Principal Accountant General (A&E)
Tamil Nadu,
361, Anna Salai, Chennai 600 018. ... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India praying for an issuance of a Writ of Certiorarified Mandamus to call for the records bearing letter No.Pen3/4/10306367/ADK/102 dated 25.06.2012 of the third respondent and quash the same and further direct the respondents to grant pension to the petitioner by counting the services rendered as part time Panchayat Clerk from 07.11.1988 till 27.12.1991 and full time Panchayat Assistant from 28.12.1992 till 30.3.2004 along with regular Government Service from 31.03.2004 till 31.05.2011 for the purpose of pension with all consequential benefits such as arrears of pension etc.,

For Petitioner : Mr.K.S.Viswanathan

For Respondent : Mr.S.Prabhakaran
Nos.1&2 Government Advocate

For Respondent :Mr.V.Vijayshankar
No.3

O R D E R

The order of rejection rejecting the claim of the writ petitioner to grant retrospective date of appointment enabling him to avail the benefit of the old pension scheme is under challenge in the present writ petition.

2.The writ petitioner was appointed as part time Panchayat Clerk in Thengumarahade Village Panchayat on 07.11.1988. The petitioner was further appointed as full time Panchayat Assistant in the same Panchayat from 28.12.1991. As per the Government Order, 10% of the vacancies in the post of the Junior Assistant is to be filled up from incumbents, the eligible persons working in the cadre of Panchayat Clerk.

3.The learned counsel for the petitioner reiterated that the petitioner was fully qualified for appointment to the post of Junior Assistant during the relevant point of time. In view of the fact that the post of Junior Assistant falls under the purview of the Tamil Nadu Public Service Commission, necessary ratification is to be obtained from the Tamil Nadu Public Service Commission. Though a proposal was submitted in this regard, there was an enormous delay on the part of the authorities in clearing the file, which resulted in denial of appointment during the relevant point of time to the post of Junior Assistant.

4.It is mainly contended by the petitioner that the delay should not be a ground for denial of benefit of the old pension scheme to the writ petitioner. Admittedly, the writ petitioner was appointed to the post of Junior Assistant only on 29.03.2004. However, the cut of date fixed for old pension scheme is 01.04.2003 and the persons appointed after 01.04.2003 is eligible for contributory pension scheme. With reference to the counting of services, the authorities have to consider the same in accordance with the rules in force. However, retrospective appointment to the post of Junior Assistant cannot be granted merely on the ground that there was an administrative delay in granting appointment to the petitioner in the post of Junior Assistant.

5.The rights accrued in the post of Junior Assistant only with effect from the date of appointment on 29.03.2004. Pendency of the proposal for appointment would not confer any right on the writ petitioner to claim retrospective appointment for the purpose of availing the benefit of old pension scheme. This being the principles to be followed, the claim of the writ petitioner cannot be considered as there is no infirmity in respect of the reasons stated in the order impugned. As rightly contended, the petitioner was appointed to the post of Junior Assistant only on 29.03.2004 beyond the cut of date fixed for the grant of benefit under the old pension scheme.

6. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sms/sli
To

1. The District Collector,
(Panchayat Development) Section
Nilgiris District, Udagamandalam.
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(Village Panchayat) Kothagiri Block,
Nilgiris District.
3. The Principal Accountant General (A&E)
Tamil Nadu,
361, Anna Salai, Chennai 600 018

+1 cc to Government Pleader Sr.NO. 35946

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RGN(CO)
A.SK(11/07/2022)