



W.P.No.23334 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23334 of 2017

M.Munisamy

... Petitioner

Vs.

1.The Principal Secretary to Government,
Municipal Administration and
Water Supply Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

2.The Commissioner of
Municipal Administration,
Government of Tamil Nadu
Chepauk, Chennai – 600 005.

3.The Director of Municipal Administration
Government of Tamil Nadu,
Chepauk, Chennai – 600 005.

4.The Commissioner,
Corporation of Vellore,
Officers Line, Vellore – 632 001.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order dated 03.04.2017 passed by the 4th



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respondent vide his letter Na.Ka.No.6241/2014/E1 and Subsequent letter dated 23.05.2017 passed by the First Respondent Vide Letter No. 2183/M.C.6/2015-5 and quash the same and direct the first respondent permit the petitioner to retire from his service on attaining the age of 60 years on 30.06.2010 AN on superannuation with all attended and monetary benefits thereto as per the Tamil Nadu Basic Service Rules and the Tamil Nadu Pension Rules on merits.

For Petitioner	: Mr.G.P.Arivuchudar For M/s.Law Square
For R1 to R3	: Mrs.R.L.Karthika Government Advocate
For R4	: No Appearance

ORDER

The order impugned, rejecting the claim of the writ petitioner to fix his date of retirement as 60 years is under challenge in the present writ petition.

2. The petitioner was appointed as Tap Cleaner on daily wage basis in the 4th respondent / Corporation at Vellore. The services of the writ petitioner were regularised subsequently and he was brought under regular establishment. The petitioner was allowed to retire from service on 30.06.2008 on attaining the age of superannuation. However, the petitioner



claims that he is entitled to continue till he attain the age of 60 years as per Rule 32 of the Tamil Nadu Pension Rules, 1978. The petitioner further relied on the provisions of the Fundamental Rules and the Tamil Nadu Basic Services Rules to establish that he is entitled to continue his service till he attain the age of 60 years. However, the Service Rules applicable to the Corporation are independent and the benefit of 60 years of age for retirement was granted by the Government only with effect from 16.10.2008. In view of the fact that as on the date of retirement of the writ petitioner on 30.06.2008, the age of retirement was 58 years and accordingly, the petitioner was relieved from service.

3. The employees, who were in services after 16.10.2008 was allowed to retire from service on attaining the age of 60 years. This being the factum, the respondents have not committed any infirmity in respect of the retirement age of the petitioner and furthermore, the petitioner has filed a writ petition initially in W.P.No.23673 of 2009 and this Court directed the authorities to consider the representation by order dated 12.12.2013. Another writ petition was also filed by the writ petitioner in W.P.No.350 of 2017 and the present writ petition is the third one.



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4. The fact remains that the petitioner was allowed to retire from service on 30.06.2008 and he has already crossed the age about 70 years. Since the petitioner was allowed to retire from service and now he has crossed the age of 70 years, the question of considering the case of the writ petitioner to allow him to retire till he attain the age of 60 years would not arise at all. Monetary benefits cannot be extended as the petitioner was not allowed to work beyond his date of retirement on 30.06.2008. Therefore, the relief as such sought for deserves no further consideration.

5. Accordingly, the Writ Petition stands dismissed. No costs.

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(1/2)

Jeni
Index : Yes
Speaking order



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To

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S.M.SUBRAMANIAM, J.

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