



WEB COPY



W.P.No.14800 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14800 of 2017
and W.M.P. No.22163 of 2018

R.Selvamurthy

... Petitioner

Vs.

The State of Tamil Nadu Represented by

- 1.The Principal Secretary to Government,
Labour and Employment Department,
Fort St. George,
Chennai – 600 009.
- 2.The Commissioner of Labour,
DMS Complex,
Chennai – 600 006.
- 3.The Director,
Tamil Nadu Institute of Labour Studies,
No.5, Kamarajar Salai, Triplicane,
Chennai – 600 005.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 20.1.2016 to the 3rd respondent



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and consequently to direct the 3rd respondent to pay pension and other benefits to the petitioner as provided under Tamil Nadu Pension Rules, 1978.

For Petitioner : Mr.P.Ragavan

For Respondents : No Appearance

ORDER

The relief sought for in the present writ petition is to direct the respondents to consider the petitioner's representation dated 20.01.2016 to grant pension under the Tamil Nadu Pension Rules, 1978.

2.The petitioner filed the writ petition after a lapse of four years from the date of retirement and at the age of 62 years claiming that the pension is to be granted under the Tamil Nadu Pension Rules, 1978.

3.It is not in dispute that the 3rd respondent/Tamil Nadu Institute of Labour Studies is a Society registered under the statute and functioning under the control of Department of Labour and Employment. However, the employees appointed by the Society are not the Government servants. The Society is governed under the by-laws which is approved by the competent authority under the provisions of the statute. Thus, the service conditions of the Society



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are independent and not connected with the Government services. In other words, the Government Service Rules are inapplicable to the employees of the 3rd respondent Society. Since, the 3rd respondent is a Society registered, the employees were contributing under the provisions of the Provident Fund Act. The learned counsel for the petitioner states that the petitioner is receiving pension under the Provident Fund Scheme and therefore, he filed a writ petition for grant of pension under the Tamil Nadu Pension Rules.

4.The petitioner cannot claim the benefit of the Tamil Nadu Pension Rules, 1978, since the 3rd respondent is a Society and not governed by the Government Service Rules including the Tamil Nadu Pension Rules, 1978.

5.It is not in dispute that the petitioner is governed under the Employees Pension Scheme, 1995 as provided under Employees Provident Fund and Miscellaneous Provisions Act, 1952. Accordingly, he is receiving pension under the Provident Fund Pension Scheme. Since, the services of the petitioner are not governed under the Tamil Nadu Government Servants Service Rules and the Tamil Nadu Pension Rules, 1978, the benefit of the Pension Rules cannot be granted to the writ petitioner.



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6.The learned counsel for the petitioner made a submission that one Professor who served in the 3rd respondent Society was benefited pursuant to the orders passed by the Division Bench of this Court in W.A.No.269 of 2010, dated 29.09.2011 and the Government also issued orders in G.O.Ms.No.260, dated 11.11.2013. Perusal of the said order reveals that the said Professor was brought under the pensionable scheme and there is no reference about the application of Tamil Nadu Pension Rules, 1978. Thus, the similarity shown by the petitioner is not actually similar and the Professor was also brought under the pensionable scheme under the Employee Provident Fund Scheme and therefore, the claim of the writ petitioner deserves no merit consideration. It is made clear that the services of the writ petitioner are falling under the service regulations of the 3rd respondent Society which is registered and the employees working in the 3rd respondent Society are not Government servants appointed under the Government Service Rules and thus, the provisions of the Tamil Nadu Pension Rules, 1978 is inapplicable in respect of the services rendered by the employees in the 3rd respondent Society. Thus, the petitioner has not made any acceptable ground for the purpose of considering the relief.



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7.Accordingly, this writ petition stands dismissed. No Costs.

Consequently, connected miscellaneous petition is closed.

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Index:Yes

Internet:Yes

Speaking order

ssr

To

- 1.The Principal Secretary to Government,
Labour and Employment Department,
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S.M.SUBRAMANIAM, J.

SSR

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