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W.P.No. 17499 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 30.11.2022**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P. No. 17499 of 2017**

A.S. Palanisamy

... Petitioner

Vs

1. The Secretary to Government,  
High Ways & Minor Ports Department,  
Secretariat, Chennai – 600 009.
  2. The Secretary to Government,  
Legislative Assembly Department,  
Secretariat, Chennai – 600 009.
  3. The Tahsildar,  
Perambur Purasaiwalkam Taluk,  
Chennai 600007
  4. The General Manager  
Chennai Metropolitan Water Supply &  
Sewerage Board, Chennai -600 002.
  5. The Accountant General  
Chennai - 600 018.
- Respondents

...

**Prayer :** Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to accept personal knowledge certificate issued by way of affidavit in favour of the petitioner by the pensioner M.Balachandran holding P.P.O. No. 3990/TWAD/2006 as eligible certifier in regard to service rendered by the petitioner w.e.f 24.04.1978 to 21.06.1979 in 4<sup>th</sup> respondent office and pass order reckoning all the temporary services rendered in 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> respondent office for pensionary benefits as well consequently record appropriate Gross and Net qualifying service in the Service Register and the pension pay order of the petitioner while forwarding proposal to the 5<sup>th</sup> respondent AG for



sanction of revised pension with monetary benefits w.e.f. 25.08.2009.

|                 |                                                                                                                                                                                |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For Petitioner  | : Mr. A. S. Palanisamy                                                                                                                                                         |
| For Respondents | : Mr. S. Balamurugan<br>Government Advocate<br>R1<br>Mr. T. K. Saravanan<br>Government Advocate<br>for R2 and R3<br>Mr. Krishna Ravindran<br>for R4<br>Mr. V. Murali<br>for R5 |

### **ORDER**

A writ of mandamus has been filed to direct to first respondent to accept personal knowledge certificate issued by way of affidavit in favour of the petitioner by the pensioner M.Balachandran holding P.P.O. No. 3990/TWAD/2006 as eligible certifier in regard to service rendered by the petitioner w.e.f 24.04.1978 to 21.06.1979 in the fourth respondent office and pass order reckoning all the temporary services rendered in second, third and fourth respondents' office for pensionary benefits as well consequently record appropriate Gross and Net qualifying service in the Service Register and the pension pay order of the petitioner while forwarding proposal to the fifth respondent/Accountant General for sanction of revised pension with monetary benefits w.e.f. 25.08.2009.



2. The petitioner in person articulated his case since he is a practicing lawyer in the High Court of Madras, after his voluntary retirement from 2001 onwards.

3. The petitioner states that he joined as a Junior Assistant in the Tamil Nadu Secretariat Service as a regular candidate on 23.06.1979. He voluntarily retired from service from the post of Section Officer with effect from 02.01.2001. He has rendered a service for 21 years, 6 months and 10 days. The petitioner was subsequently promoted to the post of Under Secretary to Government with effect from 28.09.1998 retrospectively by an order made on 28.03.2007. The benefit of retrospective promotion was granted to the writ petitioner after his voluntary retirement.

4. The grievances of the writ petitioner is that he served temporarily in different spells in the Tamil Nadu Legislative Assembly Department, Pursaiwalkam Perambur Taluk Office, Chennai and Chennai Metropolitan Water Supply and Sewerage Board, Chennai. The details of the temporary services are as under:



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| <i>S.No.</i> | <i>Office</i>                                                         | <i>Period of Service</i>                                                                                                                                                                    |
|--------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1            | Tamil Nadu Legislative Assembly Department<br>Sectt.Chennai – 600 009 | (i) 4 <sup>th</sup> Dec' 1972 to 15 <sup>th</sup> Dec' 1972<br>(ii) 2 <sup>nd</sup> Feb' 1973 to 18 <sup>th</sup> Feb'1973<br>(iii) 1 <sup>st</sup> Mar' 1973 to 27 <sup>th</sup> mar' 1973 |
| 2            | The Tahsildar<br>Pursaiwalkam Perambur<br>Taluk, Chennai – 600 007    | 02.12.1975 to 15.06.1976<br>Total qualifying service 0 year 6 months and 12 days                                                                                                            |
| 3            | Chennai Metropolitan Water Supply and Sewerage Board, Chennai - 2     | 24.04.1978 to 21.06.1979<br>Total qualifying service 1 year 1 month and 27 days                                                                                                             |

5. The petitioner states that he served about 1 year 9 months 27 days temporarily as detailed above. However, the petitioner is not possessing any service records, appointment orders, etc. to establish the said temporary employments. In this context, the petitioner states that his colleague one Mr. Balachandran, who is also a pensioner, filed an affidavit in favour of the writ petitioner and the said affidavit is to be taken into consideration for the purpose of reckoning the qualifying services for grant of pensionary benefits. If the temporary services are counted as per Rule 11 of the Tamil Nadu Pension Rules, the petitioner will be getting enhanced pension and other consequential pensionary benefits.



6. The petitioner states that the representation in this regard submitted in detail was not considered by the respondents and thus he is constrained to move the present writ petition.

7. The Government amended Rule 11 of the Pension Rules. As per Rule 11 (4), at least 50 % of the services would have been taken into consideration and even the said benefit was not granted to the writ petitioner. Since the temporary services were full time job, he is entitled for counting of the entire temporary services as qualifying services.

8. The learned Government Advocate appearing on behalf of the respondents objected the said contention by stating that the petitioner is not eligible for counting of the temporary services as per his representation. There is no service records available either with the Government or with the Chennai Metropolitan Water Supply & Sewerage Board to ascertain the services rendered by the petitioner in the year 1978.

9. Counter filed by the first respondent Government reveals that the evidence for the period worked in Tamil Nadu Legislative Assembly and in the office of Talsildar, Pursaiwalkam Perambur



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Taluk and the above details have been verified with the above offices but the claim of the writ petitioner that he has worked at Chennai Metropolitan Water Supply and Sewerage Board would not be established since no records are available in the office of the Chennai Metropolitan Water Supply and Sewerage Board. Hence the petitioner was requested to furnish any records/particulars with due authentication so as to consider his representation vide Government letter dated 21.12.2012.

10. The respondents have further stated that the petitioner has filed a writ petitioner with a prayer to acknowledge the personal knowledge certificate obtained from Mr. Balachandran, who is said to be a colleague of the petitioner stating that the petitioner had worked with him during the period from 24.04.1978 to 21.06.1979. The request has been examined as per the law and rules in force. For counting of past services rendered by the Government servants in a pensionable establishment, authentic records of service shall be issued by the officer responsible for the record of service. As said, without authentication of service records, such service period shall not be counted for pensionary benefits under the Tamil Nadu Pension Rules, 1978.



11. The claim of the writ petitioner has not been supported by the service records. The petitioner is not having any copy of the service records. That being the case, the respondents are not in a position to consider the claim of the writ petitioner for counting of his temporary services for calculating the qualifying services for grant of pensionary benefits.

12. This court is of the considered opinion that the petitioner served in the Secretariat as Senior Officer and voluntarily retired from service and became enrolled as a lawyer in the Bar council of Tamil Nadu and practising in the High Court of Madras for the past about 21 years. Therefore, the petitioner is a senior member of the bar. Thus the petitioner is very much aware that, in the absence of any authenticated service records, the Government may not be in a position to consider his case. The petitioner's statement may be true as he has personal knowledge about his own services. However, for grant of monetary benefits from the State funds, the authorities have to maintain authenticated service records and in the absence of any such service records, they will not be in a position to grant benefits as claimed by the petitioner. Certain personal knowledge is insufficient



for the purpose of granting pensionary benefits. For grant of pensionary benefits, authenticated service records are certainly required.

13. In this context, this Court has to consider that the petitioner has not approached the competent authorities within a reasonable period of time. There was a long delay in approaching the competent authorities on the part of the petitioner. He served as a temporary employee in the year 1978 as per his own affidavit filed in the writ petition. However, he has not pursued the matter diligently within a reasonable period of time. After his voluntary retirement in the year 2001, he had actively pursued the matter after a long time and therefore, this Court is of the considered opinion that there was a enormous delay on the part of the petitioner in pursuing the matter. An employee who slept over his right, cannot wake up and claim after several years. Counting of services must be claimed during the relevant point of time when the petitioner was in service and he had retired voluntarily in the year 2001 and the writ petition has been filed in the year 2017, after a lapse of about 16 years from the date of his retirement.



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14. It is brought to the notice of this Court that earlier the petitioner filed W.P.No. 15766 of 2021 and this court passed an order on 10.8.2012, directing the respondent therein to consider the representation and pass orders on merits. Even the said writ petition was filed after a lapse of about ten years from his date of retirement. Thus, the said direction has not served the purpose of redressing the grievances of the writ petitioner. However, the delay occurred at every stage and the first writ petition was filed in the year 2011, after a lapse of 10 years from the retirement and the present writ petition has been filed after a lapse of 17 years from the date of retirement.

15. Learned counsel for the respondent Chennai Metropolitan Water Supply and Sewerage Board brought to the notice of this Court that the order passed in W.P.No. 15766 of 2011 dated 10.08.2012, reveals that the petitioner has to submit a consolidated representation to the first and fourth respondents therein enclosing the required documents and the clarification sought for by the Department within a period of three weeks. However, the petitioner failed to submit any such authenticated service record or documents enabling the authorities to consider his claim. In stead of submitting the relevant



documents, the petitioner has chosen to file the present writ petition again after a lapse of about five years from the date of order passed in W.P.No. 15766 of 2011.

16. Regarding the delay and laches, the Hon'ble Supreme Court of India settled the principles in the following cases:

**(i) Chairman / Managing Director, Uttar Pradesh Power Corporation Limited and Others Vs. Ramgopal** reported in **[(2020) SCC Online SC 101];**

**(ii) State of Uttar Pradesh and Others Vs. Arvind Kumar Srivastava and Others** reported in **[(2015) 1 SCC 347];**

**(iii) Rushibhai Jagdishbhai Pathak Vs. Bhavnagar Municipal Corporation** reported in **[2022 SCC Online SC 641].**

17. In the present case, the claim of the petitioner is to count the temporary services rendered by him in Chennai Metropolitan Water Supply and Sewerage Board in the year 1978. Pursuant to the early order passed in W.P.No. 15766 of 2011, the petitioner could not able to submit all the relevant service records and documents to the competent authorities for the purpose of considering his case. Contrarily, he filed the present writ petition for a direction to accept the affidavit of one of his colleague, Mr. Balachandran. Mere affidavit



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of co-employee, who is also a pensioner cannot be a basis for the purpose of considering his case and the claim of the writ petitioner in this regard was also considered by the Government and they have categorically stated that the Government required service records and authenticated documents for the purpose of considering the case of the writ petitioner. This being the factum, this court is of the opinion that the petitioner has not established any acceptable ground for the purpose of considering the relief. The writ petition stands dismissed. No costs.

**30.11.2022**

Index : Yes / No  
Speaking order / Non-Speaking order  
mrn



To

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High Ways & Minor Ports Department,  
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**S.M.SUBRAMANIAM, J.**

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