



W.P.(MD) No.2425 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.2425 of 2020

A.Vellaichamy

... Petitioner

-VS-

1.The Assistant Directors,
Department of Animal Husbandry
Srivilliputhur
Virudhunagar District

2.The Managing Director,
Tamil Nadu Poultry Development Corporation Ltd.,
Madras 17

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the impugned letter in Na.Ka.No.2008/A/2019 dated 20.09.2019 issued by the 1st respondent herein and to quash the same as illegal and to direct the 1st respondent herein to fix petitioner's pension by taking into account the total length of 31 years of service.

For Petitioner : Mr.C.Sundaravadivel



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For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

Challenging the impugned letter of the 1st respondent dated 20.09.2019 and for a consequential direction to the 1st respondent herein to fix petitioner's pension by taking into account the total length of 31 years of service, this writ petition has been filed.

2.It is the case of the petitioner that he was appointed as Junior Mazdoor in the year 1976 in the 2nd respondent Corporation. His services were subsequently regularised and he was promoted temporarily as farm assistant. While so, vide proceedings dated 12.06.2000, the petitioner was absorbed to the department of Animal Husbandry for appointment under the Government and subsequently retired from service on 31.12.2017. While so, the first respondent, vide letter dated 20.09.2019 stated that out of the total length of service, viz.,31 years, calculated 21 years 4 months and 8 days and deducted the suspension period from 24.07.1995 to 24.05.1999 and



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calculated only half of the petitioner's service in the 2nd respondent office. It is the further case of the petitioner that the case in C.C.No.310/1996 has been allowed and the petitioner was acquitted from the charge and hence, the suspension period has to be included into the service and the total length of service from 1979 to 1989 has to be calculated and challenging the said impugned order, the petitioner is before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that since the case in C.C.No.310 of 1996 for offence under Section 332 IPC has ended in acquittal and therefore, the said suspension period is to be included in the service and as such monetary benefits have to be granted. Though the petitioner has 31 years of service, calculating the half of the service rendered in the second respondent Corporation from 1989 leaving the period from 1979 to 1989, though the petitioner was regularised as early as on 02.08.1979, is illegal and hence, prayed for allowing the writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents would submit that though the petitioner was worked



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under the 2nd respondent from the year 1976, his suspension period from 24.07.1995 to 24.05.1999 was rightly deducted. Apart from that as per the decision of the Government, 139 employees of the respondent Corporation was taken to Animal Husbandry department vide G.O.Ms.No.91 dated 06.06.2000. The petitioner is one among the employees, who was relieved and accordingly, the half services rendered in the respondent Corporation has been calculated for the purpose of pension. The petitioner was absorbed in the department of Animal Husbandry with effect from 12.06.2000 and he was allowed to retire on 31.12.2017. As per the Corporation rules, the period of suspension was treated as leave without salary and the petitioner has not chosen to file any appeal and hence, the impugned order came to be passed, which does not warrant any interference.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

6. Initially the petitioner was absorbed in the respondent Corporation in the year 1979 and his services were regularised vide



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proceedings dated 02.08.1979 and subsequently absorbed in the Animal Husbandry as per G.O.Ms.No.91 and as such he retired from service on 31.12.2017. His total service is 31 years. This Court perused the impugned order. On perusal of the impugned order, the respondent considered the petitioner employment from 01.01.1989 to 11.06.2000 and thereafter, from 12.06.2000 to 31.12.2017, however deducted the suspension period and the initial service period from 01.01.1976 to 01.01.1989. It is not in dispute that the petitioner was absorbed in the Animal Husbandry Department from 12.06.2000. Prior to his absorption, he was worked in the respondent Corporation from the year 1976. The only grievance of the petitioner is that the second respondent Corporation has not calculated the period from 01.01.1976 to 01.01.1989 and upto 11.06.2000 and the petitioner produced record to show that his services were regularised by the second respondent vide proceedings in D.Dis.No.19653/E3/78 dated 02.08.1979 and he rendered the service upto 11.06.2000. It is pertinent to note that the issue in the said case is no longer res integra as per the decision of the Full Bench in ***Government of Tamil Nadu v. Kaliyamoorthy (2019(6) CTC 705)***, wherein in Paragraph No.45 (iii), this Court has held as follows:



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“45....

(iii) In case, a Government employee/servant had also rendered service in Non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.”

7. Admittedly, the petitioner's services were regularised in the second respondent Corporation prior to 2003 and the regularisation order dated 02.08.1979 was also placed before this Court. Hence, by applying the said ratio laid down by the Full Bench of this Court, the impugned order is liable to be interfered with.

8. Accordingly, the writ petition is allowed and the impugned order is set aside and the respondents are directed to calculate the services rendered by the petitioner in the second respondent Corporation dated 02.08.1979 to 01.01.1989. However, the petitioner is not entitled for the



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suspension period from 24.07.1995 to 24.05.1999 and the respondents are directed to pass appropriate orders in accordance with law. No costs.

06.12.2022

Index : Yes
Internet : Yes/No

RR

To

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M.DHANDAPANI, J.

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