



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.04.2022

CORAM:

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

W.P. (MD)No.13913 of 2019

WEB COPY

Vasanthi

... Petitioner

Vs.

1.The Secretary to Government
Social Welfare Department
Government of Tamilnadu
Secretariat, Chennai 600 009.

2.The Accountant General
361 Anna Salai
Chennai

3.The Director,
Social Welfare Department
Integrated Child Development Project,
Tharamani, Chennai

4.The District Project Officer,
District Project Office,
Sivagangai District,
Sivagangai

5.The District Collector,
Sivagangai District,
Sivagangai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the respondents to grant pension and other monetary benefits to the petitioner based on her representation dated 14.06.2018.

For Petitioner	: Mr.S.Muniyandi
For Respondents	: Mr.D.S.Nedunchezian Government Advocate

ORDER

The relief sought for in the present writ petition is to direct the respondents to grant pension and other monetary benefits to the petitioner based on the representation.

2.The affidavit filed in support of the writ petition by the petitioner itself reveals that the petitioner had decided to contest



in the local body election for the post of President of Local Panchayat held during November 2011. In view of the fact that the petitioner has decided to contest in the local body election, she resigned the post of Anganwadi Worker and the said resignation was accepted. The petitioner states that she was compelled to resign. However, she has stated further that she executed a bond to that effect that she has resigned the post on her own accord without any compulsion. The contradictory statement made by the petitioner reveals that in order to contest in the local body election, she resigned her job. However, the resignation was accepted in the year 2011 and the present writ petition is filed after a lapse of about eight years in the year 2019. In respect of a resigned employee, they are not considered for any favour under Rule 23 of the Tamil Nadu Pension Rules, 1978.

3. The Hon'ble Supreme Court also in the case of ***Union of India and others v. Braj Nandan Singh*** reported in ***2005(8) SCC 325*** held as follows:

"5. In order to appreciate rival submissions Rule 26 which is the pivotal provision needs to be quoted. The same reads as under:

"26. Forfeiture of service on resignation (1) Resignation from a service or post, unless it is allowed to be withdrawn in the public interest by the Appointing Authority, entails forfeiture of past service.

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies."

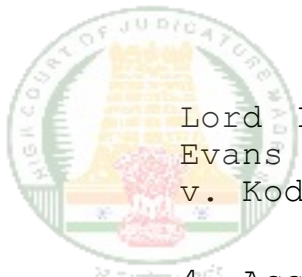
Rule 26 as the heading itself shows relates to forfeiture of service on resignation. In clear terms it provides that resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the Appointing Authority, entails forfeiture of past service. The language is couched in mandatory terms. However, sub-rule (2) is in the nature of an exception. It provides that resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies. Admittedly this is not the case in the present appeal. Rule 5 on which great emphasis was laid down by the learned counsel for the respondent deals with regulation of claims to pension or family pension. Qualifying service is dealt with in Chapter III. The conditions subject to which service qualifies are provided in Rule 14. Chapter V deals with classes of pensions and conditions governing their grant. The effect of Rule 26 sub-rules (1) and (2) cannot be lost sight of



while deciding the question of entitlement of pension. The High Court was not justified in its conclusion that the rule was being torn out of context. After the past service is forfeited the same has to be excluded from the period of qualifying service. The language of Rule 26 sub-rules (1) and (2) is very clear and unambiguous. It is trite law that all the provisions of a statute have to be read together and no particular provision should be treated as superfluous. That being the position after the acceptance of resignation, in terms of Rule 26 sub-rule (1) the past service stands forfeited. That being so, it has to be held that for the purpose of deciding question of entitlement to pension the respondent did not have the qualifying period of service. There is no substance in the plea of the learned counsel for the respondent that Rule 26 sub-rules (1) and (2) has limited operation and does not wipe out entitlement to pension as quantified in Rule 49. Said Rule deals with amount of pension and not with entitlement.

6. It is well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of legislative intent.

7. Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the Legislature enacting it. (See *Institute of Chartered Accountants of India v. M/s Price Waterhouse and Anr.* (AIR 1998 SC 74)) The intention of the Legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided. As observed in *Crawford v. Spooner* (1846 (6) Moore PC 1), Courts, cannot aid the Legislatures' defective phrasing of an Act, we cannot add or mend, and by construction make up deficiencies which are left there. (See *The State of Gujarat and Ors. v. Dilipbhai Nathjibhai Patel and Anr.* (JT 1998 (2) SC 253)). It is contrary to all rules of construction to read words into an Act unless it is absolutely necessary to do so. (See *Stock v. Frank Jones (Tiptan) Ltd.* (1978 1 All ER 948 (HL)). Rules of interpretation do not permit Courts to do so, unless the provision as it stands is meaningless or of doubtful meaning. Courts are not entitled to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself. (Per



Lord Loreburn L.C. in Vickers Sons and Maxim Ltd. v. Evans (1910) AC 445 (HL), quoted in Jamma Masjid, Mercara v. Kodimaniandra Deviah and Ors.(AIR 1962 SC 847)."

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

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To

1.The Secretary to Government
Social Welfare Department
Government of Tamilnadu
Secretariat, Chennai 600 009.

2.The Accountant General
361 Anna Salai
Chennai

3.The Director,
Social Welfare Department
Integrated Child Development Project,
Tharamani, Chennai

4.The District Project Officer,
District Project Office,
Sivagangai District,
Sivagangai

5.The District Collector,
Sivagangai District,
Sivagangai

+1 CC to M/s.SPL.GP. (SR-18616[F] dated 13/04/2022)

W.P. (MD)No.13913 of 2019

12.04.2022

RK(28.04.2022) 4P 7C