



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.03.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY
W.P. (MD)No.19813 of 2014

WEB COPY

D.John Rajasingh ... Petitioner

vs

1. Tuticorin Port Trust,
represented by its Chairman,
V.O.Chaidambaranar Port Trust,
Bharathi Nagar, Tuticorin,
Tuticorin District.

2. The Chief Accounts Officer and Finance Advisor,
V.O.Chidambaranar Port Trust,
Bharathi Nagar, Tuticorin,
Tuticorin District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in No:A-1/20/1998-Pen-1702, dated 16/17.05.2014, quash the same and direct the respondents to sanction monthly pension and all other retirement benefits to the petitioner.

For Petitioner : Mr.R.J.Karthick

For Respondents : M/S.Jeevitha
for M/S.Gnanadesikan
Law Associates

O R D E R

The petitioner has filed this writ petition to quash the impugned order dated 17.05.2014 and direct the respondents to sanction monthly pension and all other retirement benefits to the petitioner.

2.The brief facts of the case are that the petitioner joined Tuticorin Post Trust as Helper on 25.04.1975. Then as NMR (Helper) on the basis of interview, dated 12.07.1976. Thereafter, the petitioner became Kalasi (Mechanical) by direct recruitment through proceedings, dated 09.11.1979. Thereafter, the petitioner was promoted as Lower Division Clerk on 26.12.1984 and continued with the service with the first respondent. However, because of the



compelling reason due to his family circumstances, he was relieved from the respondent service on resignation with effect from 17.09.1996. On 20.07.2004, the petitioner submitted a request to the first respondent to consider his NMR service for the pensionary benefits. On 13.09.2004, the respondents replied stating that the

"service paid for contingency should have been continued and followed by absorption in regular employment without break and weightage for past service will be limited to the pension after 01.01.1961 for which authentic records is not available in the Office of NMR service and as condition No.2 is not fulfilled, hence the request would not be entertained".

Further communication, dated 07.10.2006, it was contended that as per Rule 26 of CCS (Pensioner Rules 1972), resignation from service on the Tuticorin Port entails forfeiture of past service and accordingly the request of the petitioner cannot be entertained. Aggrieved over the said communication, the petitioner has filed a writ petition in W.P.(MD)No.3368 of 2014 and this Court directed the respondents to consider the representation and pass orders. Based on which the present impugned order, dated 16.05.2014 was passed, declining the claim of the petitioner.

3. The second respondent has filed a counter affidavit stating that the petitioner is not entitled for two reasons because the petitioner has resigned his service and forfeiture of past service will come into effect. Moreover, NMR service cannot be taken into account to calculate the pensionable service.

4. Heard Mr.R.J.Karthick, learned Counsel appearing for the petitioner and M/S.Jeevitha, learned Counsel appearing for the respondents.

5. The contention of the petitioner is that he was put in service for 22 years. Therefore, the petitioner is entitled to the pension. However, once the employee was relieved from service on resignation then the employee is not entitled to pension as per Rule 26 of CCS (Pensioner Rules 1972), because resignation from service entails forfeiture of past service. Therefore, the petitioner is not entitled to the pensionary benefits.

6. Hence, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr



Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Chairman,
Tuticorin Port Trust,
V.O.Chaidambaranar Port Trust,
Bharathi Nagar, Tuticorin,
Tuticorin District.
- 2.The Chief Accounts Officer and Finance Advisor,
V.O.Chidambaranar Port Trust,
Bharathi Nagar, Tuticorin,
Tuticorin District.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-13137[F] dated 21/03/2022)
W.P.(MD)No.19813 of 2014
18.03.2022

MGJ(05.04.2022) 3P 4C