



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.11417 of 2015

and

W.M.P(MD) No.1 of 2015

WEB COPY

J.Senathipathi

... Petitioner

Vs.

1.The Agriculture Production Commissioner &
Secretary to Agriculture Department,
Secretariat,
Fort.St.George,
Chennai-600 009

2.The Chief Engineer (Agriculture Engineering),
487, Annasalai,
Nanthanam,
Chennai-600 035.

3.The Assistant Executive Engineer (Agriculture Engineering),
No.60, TPK Road,
Madurai-625 011,
Madurai District.

4.The Principal Accountant General (Accounts and Entitlements),
361, Annasalai,
Teynampet,
Chennai-600 018

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Communication in Letter No. 33659/Ve.Ni.3/2013-2 dated 26.11.2014 on the file of the Respondent No.1 and quash the same as illegal and consequently to direct the Respondent No.1 to calculate the service rendered by the petitioner from 10.03.1982 to 13.08.1986 at Agriculture College and Research Institute, Tamil Nadu Agriculture University, Coimbatore and Madurai for pensionary benefits within the time stipulated by this Honourable Court.



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For Petitioner : Mr.T.Lajapathi Roy
For Respondent : Mr.N.Ramesh Arumugam
Nos.1 to 3 Government Advocate (Civil Side).
For Respondent : Mr.P.Gunasekaran
No.4

O R D E R

This Writ Petition is filed to quash the impugned order dated 26.11.2014 with consequential prayer directing the respondents to calculate the service rendered by the petitioner from 10.03.1982 to 13.08.1986 at Agricultural College and Research Institute, Tamil Nadu Agriculture University, Coimbatore and Madurai for pensionary benefits.

2.The brief facts of the case are that the petitioner was appointed as Assistant Professor on 10.03.1982 at the college of Agriculture Engineering and Research Institute, Tamil Nadu Agriculture University, Coimbatore. Thereafter, the petitioner came to Madurai Agriculture University by way of transfer. The petitioner had worked in Madurai until 13.08.1986. Thereafter, resigned from service for the sake of departmental service. On 08.03.1988, the petitioner joined as Assistant Engineer (AE) in the office of the Assistant Executive Engineer (AE), CADP, Madurai and retired from service on 31.03.2013 with 29 years and 5 months and 27 days of Government service altogether.

3.The contention of the petitioner is that when the pension proposal was prepared, the respondents denied to take the service rendered in Agriculture College in Coimbatore and Madurai for the period from 10.03.1982 to 13.08.1986 while calculating the pensionable period. Thus 4 years and 5 months and 3 days of the earlier service has been neglected while calculating the pension. The petitioner submitted a representation to the authorities to take necessary steps to count the said charge. The fourth respondent passed an order dated 16.08.2012 that it is for the first respondent to pass necessary orders for counting the previous service by condoning the break in service for the period from 14.08.1986 to 07.03.1988. Thereafter the Superintendent Engineering (AE), Madurai Region, vide proposal, dated 11.10.2013 addressed to the first respondent for passing necessary orders for inclusion of the service from 1982-1986 and the same was forwarded by the second respondent to the first respondent, vide letter, dated 10.12.2013. The first respondent has passed the impugned order dated 26.11.2014 stating that there is no provision in the rules for condoning the break in service period from 14.08.1986 to 07.03.1988 and has also relied on Rule 23(1) of Tamil Nadu Pension Rules, 1978 wherein it states forfeiture of past service would come into effect on resignation. Aggrieved over the said communication, the petitioner has preferred



this writ petition.

4.The first and third respondent have filed a counter affidavit stating that since the petitioner has resigned from service, as per the Tamil Nadu Pension Rules under Rule 23 Forfeiture of service on resignation come into effect. As per Rule 25, condonation can be considered only for the situation stated in the Rule 25. Since the Rules are not applicable to the petitioner, he is not eligible to the same.

5.Heard Mr. Karthik for Mr.T.Lajathapathi Roy, appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondent No.1 to 3 and Mr.P.Gunasekaran, learned Standing Counsel appearing for the fourth respondent.

6.The contention of the petitioner is that the petitioner resigned from University service then joined the Government service. Admittedly, there is a break in service from 14.03.1986 to 07.03.1988 i.e. nearly two years. The petitioner has not explained the break in service. If there is any break in service for a limited number of days then this Court has passed several orders condoning the delay. In the present case, there is no reason adduced for the break in service. The Rule 25 also clearly states that the break in service can be condoned automatically and the service can be treated as qualifying service, but such condition is not applicable in the cases of resignation or removable by service. In the present case, it is a resignation. Therefore, the petitioner is not eligible for condonation.

7.The next contention raised by the petitioner is that he has obtained prior permission for joining the next service. The petitioner relied on the communication from the Dean of Registrar and the relevant portion is extracted hereunder:

"Subsequently, he resigned from service with effect from 13.08.1986 and his resignation was accepted by the Tamil Nadu Agricultural University, vide Registrar proceedings No.A7/14027/86 dated 07.08.1986 and the Dean's proceedings in A/5323/86 dated 14.08.1986 (Reference: Pay Bill Register)."

According to the petitioner, these two proceedings clearly spelled out the reasons that the petitioner is seeking prior permission to join the subsequent service. The petitioner is not able to produce the said two proceedings. When this Court directed the respondents to produce the same, they submitted, since it is more than 25 years, the same cannot be traced now. On perusing the affidavit, the petitioner has not stated that the petitioner sought prior permission for joining the subsequent service. Therefore, this Court is of the considered opinion that the petition is not entitled to add the said service, since it amounts to forfeiture of service.



Therefore, the writ petition is devoid of merits.

8.Hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

jbr

To

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+1 CC to M/s.SPL GP (SR-14518[F] dated 25/03/2022)

+2 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-14731,SR-14406[F] dated 25/03/2022)

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RD(19.04.2022) 4P 9C