



W.P.(MD)Nos.24037 & 24038 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.09.2022**

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THE HON'BL MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.24037 & 24038 of 2016

W.P.(MD)No.24037 of 2016

K.Muniyandi

... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George,
Chennai – 600 009.
2. The Director of Public Health and Preventive Medicine,
Chennai – 600 006.
3. The Pay and Accounts Officer, (South)
Chennai – 600 035.
4. The Deputy Director of Health Services,
Ramanathapuram,
Ramanathapuram District.

... Respondents



W.P.(MD)Nos.24037 & 24037 of 2016

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent in his proceedings in Letter No.30760/AB1/2016-4, dated 11.11.2016 and quash the same and consequently, direct the respondents to regularize the services of the petitioner for the period from 26.07.1978 to 18.08.1983 and to pay the arrears of salary and other monetary benefits.

W.P.(MD)No.24038 of 2016

K.Rangasamy

... Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George,
Chennai – 600 009.
2. The Director of Public Health and Preventive Medicine,
Chennai – 600 006.
3. The Pay and Accounts Officer, (South)
Chennai – 600 035.
4. The Deputy Director of Health Services,
Ramanathapuram,
Ramanathapuram District.

... Respondents



W.P.(MD)Nos.24037 & 24037 of 2016

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent in his proceedings in Letter No.30700/AB1/2016-5, dated 11.11.2016 and quash the same and consequently, direct the respondents to regularize the services of the petitioner for the period from 02.02.1973 to 31.03.1979 and to pay the arrears of salary and other monetary benefits.

(In both cases)

For Petitioner : Mr.N.Sathish Babu

For Respondents : Mr.C.Baskaran
Government Advocate (civil side)

ORDER

This Writ Petition in W.P.(MD)No.24037 of 2016 is filed to quash the order, dated 11.11.2016, with the consequential prayer to regularize the service of the petitioner for the period from 26.07.1978 to 18.08.1983.

2. The Writ Petition in W.P.(MD)No.24038 of 2016 is filed to quash the order, dated 11.11.2016, with the consequential prayer to



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regularize the service of the petitioner for the period from 02.02.1973 to 31.03.1979.

3. The brief facts as stated in the affidavit in W.P.(MD) No. 24037 of 2016 is that the petitioner was appointed as Mazdoor (now re-designated as Field Workers) on 26.07.1978 on consolidated pay. The District Health Officer, Tirunelveli, vide proceedings, dated 22.02.1986 has brought the contingent Mazdoors to regular Mazdoors. As per the G.O.Ms.No.605 (P&AR) Department dated 20.06.1984, the petitioner was regularized with effect from 19.08.1983. Now the petitioner has come out with the plea to regularize the consolidated pay service from 26.07.1978 to 18.08.1983. The contention of the petitioner is that the similarly placed persons were regularized during the earlier period through G.O.Ms.No.272, dated 12.09.2012. The petitioner's service was not regularized because there was no proper record for the petitioner to regularize the said period. The petitioner has submitted a representation and the respondent has considered and passed order, vide letter, dated 11.11.2016, wherein, it has been stated that earlier Government Order



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was passed only for the persons whose work records were available.

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4. The contention of the petitioner is that he is receiving pension for the regular service which was rendered from 19.08.1984-2011 i.e., the date of regularization to till the date of superannuation and the petitioner is entitled to the pay and he is receiving the pension also. The petitioner is seeking to add the consolidated pay for the purpose of increased pension and the petitioner is already receiving the pension for the service period which was rendered for more than 26 years.

5. The petitioner has come belatedly and there is no legal entitlement to consider the consolidated pay for pensionable service. Moreover the specific plea of the respondents that there is no records to show that the petitioner had served during the disputed period. When there is no record then the petitioner is not entitled to add the said service. Therefore, based on the delay and latches, based on the principles the consolidated pay cannot be considered and records are not



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available, the petitioner's claim to regularize the service from 1978-1983 cannot be considered.

6. With the above said observation, both the Writ Petitions are dismissed. No costs.

30.09.2022

Index : Yes / No
Internet : Yes / No
jbr

To

1. The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George,
Chennai – 600 009.
2. The Director of Public Health and Preventive Medicine,
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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)Nos.24037 & 24038 of 2016

30.09.2022