



W.P.Nos.14639 and 14695 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.14695 of 2012 and

W.P.No.14639 of 2012 and M.P.No.1 of 2012

S.Annadurai ... Petitioner in W.P.No.14695 of 2012

R.Chelladurai ... Petitioner in W.P.No.14639 of 2012

..Vs..

1. The Secretary to Government,
Forest & Environment Department,
Fort St.George, Chennai – 9.
2. The Principal Chief Conservator of Forests,
'Panagal Buildings', Chennai – 15.
3. The Divisional Forest Officer,
Interface Forestry Division,
Salem – 636 007.
4. The Accountant-General/A&E Entitlement
Anna Salai, Chennai – 6. .. Respondents in W.P.No.14695 of 2012

1. The Secretary to Government,
Forest & Environment Department,
Fort St.George, Chennai – 9.
2. The Principal Chief Conservator of Forests,
'Panagal Buildings', Chennai – 15.



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3. The District Forest Officer,
Namakkal Division, Namakkal.

4. The Accountant-General/A&E Entitlement
Anna Salai, Chennai – 6. .. Respondents in W.P.No.14639 of 2012

Prayer in W.P.No.14695 of 2012:– Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondents in connection with the impugned order passed by the 3rd respondent in Na.Ka.No.400/08C dated 10.07.2008 and quash the same and further direct the respondents to count the service rendered by the petitioner as Grade-II Warder in the Salem Central Prison of Tamil Nadu Jail Department for the purpose of calculating the qualifying service rendered for the purpose of pensionary benefits and grant him all consequential service and monetary benefits.

Prayer in W.P.No.14639 of 2012:– Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondents in connection with the impugned order passed by the 2nd respondent in Na.Ka.No.Pen/26520/2010 dated 23.09.2010 and quash the same and further direct the respondents to count the service rendered by the petitioner as Grade-II Warder in the Salem Central Prison of Tamil Nadu Jail Department for the purpose of calculating the qualifying service rendered for the purpose of pensionary benefits and grant him all consequential service and monetary benefits.

For Petitioners : Mr.K.Venkataramani, Senior Counsel
For Mr.M.Muthappan



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For R1 to R3 in
both W.Ps

: Mr.Dr.T.Seenivasan,
Special Government Pleader

For R4 in
both W.Ps

: Mr.V.Vijayashankar,
Central Government Standing Counsel

COMMON ORDER

These Writ Petitions are filed praying to call for the records of the respondents and to quash the impugned order passed by the third respondent/ Divisional Forest Officer dated 23.09.2010.

W.P.No.14639 of 2012:-

2. The service matrix required for the purpose of disposal of these cases, the petitioner herein stated he has studied B.A entered the service as Grade-II Warder in the Central Prison, Salem in the Jail Sub-ordinate service through sponsorship made by the Employment Exchange, Salem, vide Call letter dated 09.09.1977. The petitioner, after attending the interview, was selected and appointed as Grade-II Warder by the order of the Superintendent of Central Prison, Salem, in his proceedings dated 20.09.1977. The petitioner joined duty on 20.09.77 F.N. Whether the post is permanent / temporary / or he is approved probationer is not disclosed by the petitioner in his affidavit filed in support of W.P.No.14639 of 2012. The petitioner being a Graduate, in



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order to get a suitable job commensurate with the educational qualifications he resigned his job on 05.06.1980 after serving for a period of 2 years, 8 months and 14 days in the afternoon. The Superintendent, Central Prison, Salem in his letter dated 06.06.2007, sent a report to the respondent-3 stating that the resignation of the petitioner was accepted by the Jail Department. However, in the Service Register of individual, it is merely stated that the Superintendent, Central Prison, has accepted the resignation of the petitioner.

3. The petitioner attended the interview conducted for the post of Forester temporarily in the T.N Forest Subordinate Service through the employment exchange call letter and on selection, he was posted as Forester based on the orders of the Conservator of Forests, Salem Circle, Salem in S.O.No.152/83 in C.No.21754/83/E1 dated 10.08.83 and he was allotted to serve in the Social Forestry Division, Salem. The Divisional Forest Officer, Social Forestry Division, Salem, in his proceedings No.467/83 dated 17.08.83 appointed the petitioner as Forester temporarily and the petitioner reported for duty on 19.08.1983 F.N. The petitioner successfully completed his probation in the year 1985 and was granted Selection Grade in the year 1995 and Special Grade in the year 2003 as per the rules of Government of Tamil Nadu



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and the petitioner, after rendering meritorious services, was allowed to retire from service on reaching the age of superannuation on 31.08.2007. Common argument have heard and disposed of by common order.

4. The learned counsel for the petitioner contended that:

(i) The service particulars of the petitioner in W.P.No.14695 of 2012 is that he has studied B.A entered the service as Grade-II Warder in the Central Prison, Salem in the Jail Subordinate Service through sponsorship by the Employment Exchange, Salem vide call letter No.X2/1354/81, dated 21.12.1981 and the petitioner after attending the interview, was selected and appointed as Grade-II Warder, by the order of the Superintendent of Central Prison, Salem, in his proceedings G1/6492/81 dated 01.01.1982. He joined duty on 01.01.82 F.N. Whether the post is permanent / temporary / of he is approved probationer, is not disclosed by the petitioner in his affidavit filed in support of W.P.No.14695 of 2012. It is submitted by the petitioner that he being a Graduate, in order to get a suitable job in commensurate with the educational qualifications, resigned his job on 11.08.1986 after serving for a period of 4 years in the Prison Department. The Superintendent, Central Prison, Salem in his letter No.P1/2022/2005



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dated 06.12.2005 has sent a report to the respondents stating that the resignation of the petitioner was accepted by the Jail Department. However, in the Service Register of the individual, it is merely stated that the Superintendent, Central Prison, has accepted the resignation of the petitioner.

(ii) The petitioner attended the interview conducted for the post of Forester temporarily in the Tamil Nadu Forest Subordinate Service through the employment exchange call letter and on selection, he was posted as Forester based on the orders of the Conservator of Forests, Salem Circle, Salem in S.O.No.116/86 in C.No.14992/86/E1 dated 23.08.1986 and was allotted to serve in the Kalrayan Division, Attur. The Divisional Forest Officer, Kalrayan Division, Attur, in his proceedings S.O.No.40/86/A1 in C.No.3312/86, dated 23.07.1986, appointed the petitioner as Forester temporarily in Koothampoondy of Periyakalrayan Range and the petitioner reported for duty on 16.08.1986 F.N. The petitioner successfully completed his probation in the year 1988 and he was granted Selection Grade in the year 1996 and Special Grade in the year 2006 as per the rules of the Government of Tamil Nadu and the petitioner, after rendering meritorious services, was allowed to retire from service on reaching the age of superannuation on 30.11.2008.



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5. (a) The service rendered by the petitioner cannot go waste for the sole reason that the service rendered in the Prison Department is through a sponsorship from the District Employment Exchange and and it was a regular appointment and probation period was also completed in that service and therefore his service also should be counted for computation for Net Qualifying service for the pensionary benefits.

(b) The contesting respondents namely the third and fourth respondents have relied upon Rules Nos. 23 and 24 of the Tamil Nadu Pension Rules and Rule No. 41 of Tamil Nadu State and Subordinate Service Rules. The said Rules refer to forfeiture of service on designation, subject to the provision that if a prior permission is taken from the Forest Department, where he rendered service, it can be counted for the purpose of pension with regard to said Rule 24, it appears with effect to interpretation his service.

6. Though it is seen from the records that the third respondent has recommended for counting of his service of 2 years 8 months 14 days for sanctioning pension, the fourth respondent–Accountant General has granted service pension for the service rendered in the Forest Department only as a Forester from 19.08.1983 to 31.08.2007 alone



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and the fourth respondent–Accountant General has not added the period of 2 years 8 months and 14 days by citing Rules 23 and 24 of the Tamil Nadu Pension Rules (hereinafter Pension Rules) and consequent thereto.

7(a). It appears that the petitioner made a representation and the second respondent, by proceedings dated:23.09.2010, rejected the claim of the petitioner for counting the services rendered in the Prison Department for the purpose of pensionary benefits on the ground that the petitioner has resigned the post in the Jail Department on 05.06.1980 and the same was accepted and hence, the period of service rendered in the Jail Department is not to be taken into account for calculating pension.

(b)The respondents herein issued orders duly following Rule 23 of Tamil Nadu Pension Rules and Rule No.41 of Tamil Nadu State and Subordinate Service Rules, which clearly states that if person forfeits his past service and if he resigns from the post, on re–employment, it will be presumed as a fresh job.

8. The learned Senior Counsel appearing for the petitioner contended that, since the services rendered by the petitioner has to be



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counted for pension in the Prison Department, but Rule 23 of the Pension Rules and Rule No.41 of Tamil Nadu State and Subordinate Service Rules clearly state that if a person forfeits his past service and if he resigns from the post on re-employment, it will be presumed as a fresh job.

9. After perusing the impugned order passed by the second respondent and also taking note of Rules 23 and 24 of Pension Rules and Rule 41 of the Tamil Nadu State and Subordinate Rules, if the resignation is presented, the period of service rendered in the resignation cadre be taken into account for the pensionary benefits. However it can be done only if it is obtained by permission and not otherwise. In the absence of any proper permission, it has to be treated as resignation simplicitor, without permission and hence, the petitioner's/employment in the Forest Department as Forester, will have be treated as a fresh employment. Since the petitioners have resigned the previous post, consequently, they forfeited their past service and as stated in Rules 23 and 24, the petitioners will have to forgo their service and in this view of the matter, I find that the impugned order passed by the second respondent herein is well merited and well considered and the same does not warrant any interference by this Court.



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10. Accordingly, these Writ Petitions are dismissed. No costs.

Consequently, connected M.P is closed.

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Index:Yes/No

Neutral Citation : Yes/No

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