



W.P.No.5787 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

THE HONOURABLE Mr. JUSTICE V. LAKSHMINARAYANAN

W.P.No.5787 of 2015

M.Munisamy

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by the Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Adi Dravidar Welfare,
Chepauk,
Chennai - 600 005.

3.The Principal Accountant General
(Accounts & Entitlements), Tamil Nadu,
361, Anna Salai,
Teynampet,
Chennai - 600 018.

... Respondents



W.P.No.5787 of 2015

WEB COPY PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent issued in Letter No.16297/ADW7/2012-1, dated 28.11.2012, quash the same and direct the respondents to count the period of service rendered by the petitioner in Tamil Nadu Ceramics Limited (TACEL) from 01.07.1974 to 10.11.1991 including condoning the break in service from 23.08.1990 to 10.11.1991 for the purpose of calculation of pension and other retirement benefits and grant him all consequential benefits.

For Petitioner : Mr.P.Manoj Kumar

For Respondents : Mr.M.Rajendran,
Additional Government Pleader
for R1 and R2

Mr.V.Vijaya Shankar
for R3



WEB COPY



W.P.No.5787 of 2015

ORDER

The petitioner was appointed to the Tamil Nadu Ceramics Limited (TACEL) in the year 1974. Unfortunately, due to circumstances beyond his control, TACEL was closed. Therefore, the Government decided to give priority to the persons who were employed in TACEL while considering them for employment to the Government. Accordingly, the petitioner was appointed as a Junior Assistant in the year 1991. He retired in the year 2008, i.e., on 31.03.2008. He wants to calculate the period of service that he had rendered between 1974 to 1988 to be added to his service as Government servant when he joined in the year 1991. This has been rejected by the 1st respondent. Challenging the same, the present Writ Petition has been filed.

2.Heard Mr.P.Manoj Kumar, learned counsel for the petitioner, Mr.M.Rajendran, learned Additional Government Pleader for the



respondents 1 and 2 and Mr.V.Vijaya Shankar, learned counsel for the
3rd respondent.

3.I am afraid I am not with the petitioner. On the closure of TACEL, the petitioner had been laid off. However, the Government being a welfare state and in order to accommodate those who have given their best years for the benefit of the body corporate which was created by the 1st respondent, decided to give the erstwhile employees a preference in the jobs.

4.The year of first entry of the petitioner into Government service is only 1991, and not before. The petitioner accepting the appointment, joined service in the year 1991 and retired in 2008. It is thereafter, he made a representation. The reason for making such a representation, to treat his service in TACEL as a part of the Government employment, is based on G.O.Ms.(4D).No.36, Small Industries (E.12) Department, dated 16.09.2004.



WEB COPY



W.P.No.5787 of 2015

5.I have gone through the said Government Order. The said Government Order was challenged by the persons who had also been laid off by TACEL and transferred to the Directorate of Industries, since their appointment was treated as a fresh appointment. They immediately challenged the said order and it was under those circumstances, the Tribunal has passed the order in O.A.No.4996 of 1992 dated 13.07.2002.

6.Transferring an employee from a Government Company to the Department of Industries is totally different from giving a fresh appointment, as in the present case to the petitioner, in the Department of Adi Dravidar Welfare. In any event, the petitioner had not challenged the order of appointing him afresh. Furthermore, after a period of 32 years, it is too late to re-visit the decision.



W.P.No.5787 of 2015

7.The learned Government pleader would also point out that there is no provision or policy in place for accommodating the persons who had been laid off, during their employment in TACEL, as Government servants by considering their past service as if it were full or in part as Government Service. There being no policy and the petitioner having accepted his appointment as fresh appointment, I am unable to accede to the request of the learned counsel for the writ petitioner.

Accordingly, this Writ Petition is dismissed. No costs.

21.06.2023

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
mps

To

1.The Secretary to Government,
Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Fort St. George,



W.P.No.5787 of 2015

Chennai - 600 009.

2.The Director of Adi Dravidar Welfare,
Chepauk,
Chennai - 600 005.

3.The Principal Accountant General
(Accounts & Entitlements), Tamil Nadu,
361, Anna Salai,
Teynampet,
Chennai - 600 018.



W.P.No.5787 of 2015

V. LAKSHMINARAYANAN, J,

mps

W.P.No.5787 of 2015

21.06.2023