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W.P.No.29991/2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-10-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.29991 of 2023

P.Kaliyamoorthi

...

Petitioner

-VS-

The Registrar General,
Hon'ble Madras High Court,
Madras High Court Campus,
Madras – 600 104.

...

Respondent

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the respondent to provide the petitioner's service records pertaining to the petitioner's 7 years of service at the Hon'ble High Court on the basis of the petitioner's representation, dated 23.02.2023.

For Petitioner : Mr.R.Srinivasan

For Respondent : Mr.Ayyadurai,
Senior Counsel,
for Mr.Durai Eswar.



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ORDER
(By S.Vaidyanathan,J.)

Petitioner has come forward with this Writ Petition seeking a direction to the respondent to provide the petitioner's service records pertaining to the petitioner's 7 years of service at the High Court, based on the petitioner's representation, dated 23.02.2023.

2. Petitioner has enclosed a copy of the representation in the typed set of papers. In the representation, it has been stated that since he has got post-graduate qualification, he resigned from the services of the respondent Registry to the post of Assistant in the year 1997, after rendering seven years of service. Going by the representation, it is seen that the petitioner requires the service register for the purpose of regularising pension and he has not sought any permission to join the services of the school for the purpose of continuation of the earlier service. For the sake of convenience, Rule 23 of the Tamil Nadu Pension Rules, in short, "the Rules", is extracted below :

"23. Forfeiture of service on resignation. (1) Resignation from a service or post entails forfeiture of past service:

Provided that a resignation shall not entail forfeiture of past service if it has been submitted to take up with proper permission, another



appointment, whether temporary or permanent, under the Government where service qualifies."

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From the aforesaid Rule, it is clear that when a person resigns from a post, there shall be forfeiture of past service. There shall not be any forfeiture of past service if he/she is going to take up another employment with prior permission whether temporary or permanent under the Government where the service qualifies. In the absence of any permission and on account of the fact that the petitioner has resigned from the service due to family circumstances, he is not entitled for any benefit in view of Rule 23 of the Rules. By innocuous prayer, the petitioner is seeking that he be provided with service record from the respondent. He is knocking the doors of this Court after 33 years of resignation. Even assuming that such a record is going to be issued, the seven years of service rendered at the respondent is not going to be helpful to him in view of the fact that he has not taken prior permission from the respondent to join the school. Petitioner has relied upon the decisions of this Court in W.P.No.20182 of 2018, dated 09.02.2023, and W.P.MD.No.334 of 2019, dated 26.07.2022. These two decisions are not applicable to the facts of this case, the reason being that both the decisions proceed on the basis that the employees therein had resigned from the services for the purpose of joining another establishment. On that score, the learned single Judge granted the relief to the effect that the entire service would have to be taken into account for the purpose



of pensionary benefits. In fact, one of us (S.Vaidyanathan,J.) dealt with a similar situation in W.P.No.19725 of 2010 on 10.07.2020.

3. Once an employee resigns from service without permission of the authority concerned for taking up employment in another place, that period will have to be forfeited for the purpose of pensionary benefits. As already stated, issuance of service record is also not helpful to the petitioner, as the past service rendered at the respondent Registry cannot be taken into account for the purpose of grant of pensionary benefits for the reasons aforementioned. A Division Bench of the Madurai Bench of this Court also upheld a similar view in *A.I.Agnel Ilangovan v. The Government of Tamil Nadu*, 2016 (3) CTC 87. In the given situation, the petitioner is not entitled to any relief.

4. Writ Petition is dismissed. No costs.

Index : Yes/No
Internet : Yes/No
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(S.V.N.,J.) (K.R.S.,J.)
19-10-2023

To

The Registrar General,
Hon'ble Madras High Court,
Madras High Court Campus,
Madras – 600 104.



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