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W.P.No.24419 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.24419 of 2021

K.Arumugam

...

Petitioner

/vs/

1. The Commissioner of Municipal Administration,
11th Floor, Urban Administrative Bldgs,
No.75, Santhome High Road,
MRC Nagar,
Raja Annamalai Puram,
Chennai – 600 028.

2. The Director,
Local fund Audit Department,
Kuralagam, 4th floor,
Chennai – 600 108.

3. The Commissioner,
Nellikuppam Department,
Nellikuppam,
Cuddalore District.

...

Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the entire records pertaining to the impugned order passed by the Commissioner,



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Nellikuppam Municipality, Nellikuppam, Cuddalore District, the third respondent herein vide proceedings in Na.Ka.No.4652/2007/C1 dated 19.10.2016 and O.Mu.No.6887/2012/C1 dated 12.10.2020 and quash the same as arbitrary, unreasonable, being violative of rules and principles of natural justice and consequently direct the respondents herein to sanction pension to the petitioner and to disburse all monetary, service and other attendant benefits to the petitioner.

For Petitioner ... Ms.V.Kaaviya
For Respondents ... Mr.G.B.Rajesh for R3

No appearance for R1 & R2

ORDER

This petition has been filed by the petitioner seeking to quash the impugned order of the third respondent dated 19.10.2016 and 12.10.2020 and direct the respondents to sanction pension to the petitioner and disburse all his terminal benefits.

2. According to the petitioner he joined as a substitute Sanitary Worker on 01.05.1967 with the third respondent municipality and continued up to 31.10.1971. He was given with time scale of pay applicable to the post of Scavenger and Sanitary Workers from 01.11.1971.



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Thereafter he served for another 10 years and from 01.11.1981 onwards he stopped from attending work. As the petitioner was suffering from health related issues, he was taking treatment and after recovery, he approached the third respondent to grant his service benefits such as gratuity, pension, etc. The then Commissioner of third respondent municipality has treated the petitioner's absence as voluntary retirement from service and issued proceedings on 10.06.2008. However the second respondent vide proceedings dated 13.11.2008 rejected the request for grant of pension by stating that municipal servant who remained unauthorizedly absent could not be treated as a person who had offered voluntary retirement. Since the petitioner was found to be eligible to get only Provident Fund, proceedings have been issued in this regard on 11.03.2009.

3. Ms.V.Kaaviya, the learned counsel for the petitioner, submitted that the petitioner had been suffering from health related issues only due to the nature of the occupation for which he has been engaged and his services have been regularized in the year 1971 and hence he is entitled to get the pensionary benefits.



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4. Mr.G.B.Rajesh, the learned counsel for the third respondent municipality, submitted that the petitioner was brought under the time scale basis only from 01.10.1973 and from which date he had completed only 8 years of service; the petitioner who had no connection with the third respondent from 01.11.1981 to 31.07.2008, all of a sudden has come with a request that he should be considered as a person who have gone on a voluntary retirement; since the minimum qualifying service for voluntary retirement is 20 years of completed service, it is right for the second respondent to reject the petitioner's eligibility for pension, because he is not eligible to get any orders to permit him to go on voluntary retirement.

5. The petitioner lacks the basic requirement for granting voluntary retirement and he remained absent from 01.11.1981 on his own volition. Hence he cannot claim that he is entitled to get voluntary retirement and all consequential terminal benefits attached therewith. Since the earlier officer-in-charge of the third respondent has passed an order to allow the petitioner to go on voluntary retirement, for a person who has not completed the required numbers of service, it is learnt that disciplinary



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action has been initiated against him. Since the petitioner has filed this writ petition seeking pension for which he is not entitled, I find no merits in it.

6. In view of reasons stated above, this Writ Petition is dismissed.

No costs.

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Index: Yes / No
Speaking order / Non-speaking order
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R.N.MANJULA ,J.

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