



W.A.(MD)No.495 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD) No.495 of 2023
and
C.M.P(MD) No.5084 of 2023**

- 1.The Director,
Panchayat Union (Pension),
Local Fund Audit Department,
4th Floor, Kuralagam,
Chennai.
- 2.The Director,
Rural Development and Panchayat,
Saidapet, Chennai – 600 015.
- 3.The Assistant Director,
Panchayat Union (Pension),
Local Fund Audit Department,
4th Floor, Kuralagam,
Chennai.
- 4.The Assistant Director,
Local Fund Audit Department,
Tirunelveli, Tirunelveli District.
- 5.The District Collector,
Tirunelveli District, Tirunelveli.
- 6.The Commissioner,
Nanguneri Panchayat Union,
Tirunelveli District.

... Appellants/



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Respondents

-VS-

P.Balasundaram

... Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 28.10.2022, passed in W.P.(MD) No.24032 of 2018, on the file of this Court.

For Appellants : Mr.S.P.Maharajan
Special Government Pleader

J U D G M E N T

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

It has become a habit of the Government to make irregular appointments, grant further promotion to the appointees, regularise their services, extract work from such appointees for more than 25 to 30 years and finally, when it comes to payment of pension, citing some audit objections or the judgment of the Hon'ble Supreme Court of India in *Secretary, State of Karnataka v. Umadevi*, reported in (2006) 4 SCC 1 deny pensionary benefits to the said employees.

2. We are also constrained to observe that such things happen only in the cases of lower grade employees like watchman and assistant. We have never come across the case where the pension payable to a person who has



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gone beyond the level of Tahsildar is questioned. We are aware as to how such persons manage to escape from the clutches of audit and other objections. This case is a classic example of exploitation of a poor workman by the Government, so called model employer. If an appointment has been made in breach of the judgment of the Hon'ble Supreme Court in *Umadevi* case, nothing prevented the authorities from taking action prior to the retirement of the persons so appointed. They need not have waited till 2015. For nearly 11 years from the judgment in *Umadevi's* case, to deny pension to the petitioner in the writ petition, who admittedly joined at the lower grade of service and promoted to the next higher post where he served the Government for nearly 30 years. The Writ Court had taken note of the said fact and has held that the employee had also offered to forego the pension in the Night-watchman post which the appointment is alleged to be irregular. The order of the Writ Court has only done justice to the petitioner and any interference will cause injustice apart from serving as a bonus for irregular and irresponsible behavior of the higher officials in the Government.

3. We, therefore, dismiss the writ appeal reserving liberty to the Government to recover any financial loss from the persons who served as the District Collector, Tirunelveli, between 1987 and 2015 even under the Pension Rules. The direction issued by the learned Single Judge is modified to the effect



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that whoever is competent is directed to sanction the pension proposal of the fifth respondent which will be resubmitted as directed by the Writ Court. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

24.04.2023

NCC : No
Index : No
Internet : Yes
PKN



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R.SUBRAMANIAN, J.
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