



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.09.2023**

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)NO.2103 OF 2019

V.Irudhayaraj

:Petitioner

.VS.

1.The Director of Backward Classes and Minority Welfare,
Chepauk,
Chennai – 05.

2.The District Backward Classes and Minority Welfare Officers,
Thanjavur,
Thanjavur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to regularize the period in between the date of initial appointment (ie.,) 7.9.1982 and the date of reappointment (ie.,) 11.04.1996 as leave on loss of pay by considering the representation of the Petitioner, dated 12.10.2018 and 2.11.2018.

For Petitioner

:Mr.K.Radhakrishnan
for M/s.D.Sasikumar

For Respondents

:Mr.J.John Rajadurai
Govt.Advocate



ORDER

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This Writ Petition is filed to direct the second respondent to regularize the period in between the date of initial appointment (ie.,) 7.9.1982 and the date of reappointment (ie.,) 11.04.1996 as leave on loss of pay by considering the representation of the Petitioner, dated 12.10.2018 and 2.11.2018.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The Petitioner was initially appointed on 7.9.1982 as a cook on consolidated basis. After his appointment, the Petitioner did not report for duty and was un-authorizedly absent from duty. Thereafter, in the month of June 1996, he reported for duty. He was permitted to join duty. Thereafter by order, dated 11.06.1996, he was placed in regular time scale of pay w.e.f. 9.1.1996. Accordingly, the Petitioner was regularized in service and retired from service by attaining superannuation w.e.f. 12.10.2018. Thereafter, the Petitioner made representation to include his service from the year 1982 to 1996 also for the purpose of calculating pension. However, the same has not been acceded to and hence the Writ Petition.



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4.The Writ Petition was resisted by the respondents by filing a counter affidavit and in paragraph No.4, it is clearly mentioned that from 16.11.1982 to 8.1.1996, the Petitioner was un-authorizedly absent. Already on that basis, the Petitioner's representation has been considered and by order, dated 12.2.2019, the prayer has been rejected. Therefore, in the absence of any challenge to the said order and because the Petitioner never worked during the said period, it is contended that the prayer of the Petitioner cannot be acceded to.

5.Mr.K.Radhakrishnan, learned counsel for the Petitioner by taking this Court through the reappointment order, would submit that in the order, it is clearly stated that it is reappointment and in that view of the matter when the petitioner has not been removed from service and when his service is continued, the same has to be taken into consideration for pension benefits. He also further submitted that punishment of three years of stoppage of increment was issued in respect thereof. Therefore, the period has to be taken into consideration for the purpose of pension.

6.Per contra, the learned Government Advocate appearing for



the respondents 1 to 4 would reiterate the submission contained in paragraph 4 of the counter affidavit.

7.I have considered the rival submissions made on either side and perused the materials placed before this Court.

8.The Petitioner has no right to count the temporary service on consolidated basis before the date of regularization. Be that as it may, in any event, the Petitioner never worked between 1982 to 1996 and there was no service at all. It is only a gesture shown by the respondents by imposing punishment and reappointment. When there is reappointment, there is no question of including the said period for pension and accordingly, this Court rejected the contention of the learned counsel for the Petitioner.

9.In the result, this Writ Petition fails and accordingly, the same stands dismissed. However, there shall be no order as to costs.

15.09.2023



Index:Yes/No
Internet:Yes/No
NCC:Yes/No

vsn

To

- 1.The Director of Backward Classes and Minority Welfare,
Chepauk,
Chennai – 05.
- 2.The District Backward Classes and Minority Welfare Officers,
Thanjavur,
Thanjavur District.



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D.BHARATHA CHAKRAVARTHY,J.

vsn

ORDER MADE IN
W.P(MD)No.2103 of 2019

15.09.2023