



WEB COPY

W.P. No.17935 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-04-2024

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

W.P. No.17935 of 2015

M. Sithesparan

... Petitioner

-VS-

1. The Chief Engineer,
Agricultural Engineer Department,
No.487, Anna Salai, Nandanam,
Chennai – 600 035.
2. The Superintending Engineer,
Agricultural Engineering Department,
Coimbatore Region,
Coimbatore – 641 013.
3. Executive Engineer,
Agricultural Engineering Department,
H-32, Periyar Nagar,
Erode – 638 009.
4. The Assistant Executive Engineer,
Agricultural Engineering Department,
Door No.73, Jayabharathi Manjal Kidanku
Manjal Valagam, Nasiyanur Road,
Nasiyanur Post,
Erode – 638 107.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India



WEB COPY



praying for the issuance of a Writ of Mandamus, directing the 1st Respondent to consider and pass Orders on the Representation dated 29.08.2014 to regularize the temporary service rendered by the petitioner in the post of Assistant Soil Conservation Officer retrospectively from 12.09.1983 to 22.08.1986 together with the services rendered in the post of Junior Draughting Officer as per the G.O.Ms.No.87 dated 24.01.1981 with all consequential service and monetary benefits.

For Petitioner : Mr. S. Silambannan

For Respondents- 1 to 4 : M/s. C. Sangamithirai,
(Special Government Pleader)

ORDER

[Order Delivered by R. KALAIMATHI, J.]

The petitioner seeks for issuance of direction to the first respondent to consider and pass Orders on the representation dated 29.08.2014 to regularize the temporary service rendered by him in the post of Assistant Soil Conservation Officer retrospectively from 12.09.1983 to 22.08.1986 together with the services rendered in the post of Junior Draughting Officer as per the G.O.Ms.No.87 dated 24.01.1981 with all consequential service and monetary benefits.



2. The petitioner was originally appointed as Assistant Soil Conservation Officer in the Agricultural Engineering Department on 12.09.1983 through Employment Exchange, Erode under Rule 10(a)(i) of General Rules for Tamilnadu State of Subordinate Services on the scale of pay of Rs.350-10-420-15-600 by an Order dated 07.09.1983.

3. The Learned Senior Counsel Mr. S. Silambannan put forth that during his service, he passed the DOM Test and Agricultural Department Test for Technical Staff in the month of May, 1985. And while he was in service, he was nominated as a candidate for the post of Junior Draughting Officer in the Agricultural Engineering Department by the District Employment Exchange Officer, Erode. Thereafter, he resigned the post of Assistant Soil Conservation Officer and got relieved from the said post on 22.08.1986 (Forenoon) and joined the post of Junior Draughting Officer on 22.08.1986 (Afternoon) under 10(a)(i) General Rules for Tamilnadu State and Subordinate Services in the scale of pay of Rs.780-35-1025-40-1385 by an Order dated 20.08.1986. His service in the post of Junior Draughting Officer was regularized with effect from 22.08.1986 (AN) by an Order in



Proc.No.A/8044/87 dated 22.10.1987, issued by the third respondent.

WEB COPY

4. It is further averred that the initial service rendered by the petitioner in the post of Assistant Soil Conservation Officer from 12.09.1983 to 22.08.1986 was left out, even though the subsequent appointment was made in the same service from one category to another carrying the identical scale of pay. According to the Rule 23 (1) of the Tamil Nadu Government Servant's Pension Rules, the initial temporary service ought to have been considered by the 1st Respondent.

5. The above said contention were stoutly objected by the respondents by stating that the past service can be counted, if one has joined properly i.e., after getting relieved properly as per the rules in force. But, if the service is resigned in, then the lien is over and the new lien starts from the date of joining in the new post. Therefore, he is not entitled to count his past service rendered on 10(a)(i) basis. As the petitioner herein has resigned from the previous post of Assistant Soil Conservation Officer and joined in the new post of Junior Draughting Officer in Agricultural Engineering Department, the service rendered previously cannot be taken into account.



WEB COPY

6. On 12.09.1983, the petitioner herein was originally appointed as Assistant Soil Conservation Officer in the Agricultural Engineering Department through Employment Exchange, Erode. On 22.08.1986, he resigned the post of Assistant Soil Conservation Officer and relieved from the said service on the same day Forenoon. Subsequently, on the same day Afternoon, he joined the post of Junior Draughting Officer under 10(a)(i) General Rules for Tamilnadu State and Subordinate Services. The service of the petitioner appears to have been regularized with effect from 22.08.1986 (AN) by an Order in Proc.No.A/8044/87 dated 22.10.1987 issued by the 3rd Respondent. Since, the initial service of the petitioner was not taken into account, he made a representation on 21.09.2012 to the Respondents requesting them to count his initial service rendered in the Post of Assistant Soil Conservation Officer for regularization, retrospectively by his letter dated 28.09.2012, thereafter on 29.08.2014 through proper channel.

7. As the 1st Respondent did not come forward to regularize the initial service retrospectively from the date of initial appointment, this Writ of Mandamus is filed by the petitioner.



WEB COPY

8. It is made clear that on 22.08.1986, the petitioner resigned the post of Assistant Soil Conservation Officer and joined the post of Junior Draughting Officer on the same day. He has given representation to regularize the initial service rendered by him in the post of Assistant Soil Conservation Officer retrospectively from 12.09.1983 till 22.08.1986. Therefore, the respondents are directed to consider the representation of the petitioner and pass Orders.

9. In the result, the present writ petition stands allowed with the direction to the Respondents to consider the representation made by the petitioner and pass Order preferably within a period of six weeks from the date of receipt of this Order. However, there shall be no order as to costs.

12-04-**2024**

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

stn



To

WEB COPY

1. The Chief Engineer,
Agricultural Engineer Department,
No.487, Anna Salai, Nandanam,
Chennai – 600 035.
2. The Superintending Engineer,
Agricultural Engineering Department,
Coimbatore Region,
Coimbatore – 641 013.
3. Executive Engineer,
Agricultural Engineering Department,
H-32, Periyar Nagar,
Erode – 638 009.
4. The Assistant Executive Engineer,
Agricultural Engineering Department,
Door No.73, Jayabharathi Manjal Kidanku
Manjal Valagam, Nasiyanur Road,
Nasiyanur Post,
Erode – 638 107.



WEB COPY



W.P. No.17935 of 2

R. KALAIMATHI, J.

stn

W.P. No. 17935 of 2015

12-04-2024