



WP(MD) No.1965 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.03.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)No.1965 of 2021

A.Koil Pillali

... Petitioner

Vs.

The District Educational Officer,
District Educational Office,
Ramanathapuram.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining the impugned order dated 31.12.2019 in Na.Ka.No. 1647/Aa1/2019 passed by the respondent and quash the same and consequentially directing the respondent to approve the pension proposal forwarded by the Correspondent to Schwartz Higher Secondary School, Ramanathapuram for sanctioning of pension and other retirement benefits to the petitioner within a time limit that may be stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.V.Om.Prakash
Govt Advocate.



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ORDER

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The petitioner herein, who worked as Vocational Instructor in a private aided school during the period 16.10.1992 to 10.10.2008, resigned for the post and got relieved himself. After the said resignation, the petitioner made a claim for payment of pension for the service rendered by him ie., for a period of 15 years 11 months and 25 days. The claim of the petitioner was rejected by passing an order dated 15.12.2017 in O.Mu.No. 3572/A4/2017. Aggrieved by the same, the petitioner filed W.P.(MD)No. 7921 of 2018 and the said order dated 15.12.2017 was set aside and the matter was remanded back to the respondent. On remand, the respondent once again rejected the claim of the petitioner by issuing a proceedings in Na.Ka.No.1647/Aa1/2019, dated 31.12.2020. Aggrieved by the same, the petitioner approached this Court by filing this Writ Petition.

2. The learned counsel for the petitioner contended that in terms of G.O.Ms.No.1015, Education Department, dated 05.06.1981 and G.O.Ms.No.37, Education, Science and Technology Department, dated 05.01.1983, the petitioner is entitled for payment of pension in spite of the petitioner resigning from the post. The learned counsel for the petitioner



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has relied upon a decision of this Court in the case of ***V.Gomathi Vs. The State of Tamil Nadu, reported in 2017 0 Supreme (Mad) 419.***

3. On the other hand, the learned Government Advocate submitted that both the Government Orders relied upon by the learned counsel for the petitioner has no application for the petitioner herein as the petitioner herein was appointed only on 16.10.1992, much after issuance of Government orders and the said Government Orders are applicable only to the candidates, who resigned from the post by the date of issuance of said Government Orders. He also further contended that in terms of Rule 23 of Tamil Nadu Pension Rules, 1978, in case if a person resigns from the post the entire service rendered by the said employee stand forfeited and they are not entitled for grant of pension.

4. From the perusal of the impugned order also, it is evident that the respondent having referred to Rule 23 of the Tamil Nadu Pension Rules, 1978, came to the conclusion that the petitioner is not entitled for payment of any pension. Rule 23 of the Tamil Nadu Pension Rules, 1978 reads as under:



“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.

(2) Interruption in service in a case falling under the proviso to sub-rule (1) due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to the Government servant.”

Thus, from the above, it is clear that Rule 23 of the Tamil Nadu Pension Rules, 1978, is very clear and mandates that in case of resignation from service or post entails forfeiture of past service. However, proviso makes certain exception, but the case of the petitioner does not come under the proviso to Rule 23 of the Tamil Nadu Pension Rules, 1978.

5. In the light of the unambiguous Rule extracted above, this Court does not find any error in the impugned order passed by the respondent.



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Except placing reliance on two Government Orders referred to above, there is no other basis that is brought to the notice of this Court for claiming pension for the petitioner.

6. The decision relied upon by the learned counsel for the petitioner in the case of *V.Gomathi Vs. The State of Tamil Nadu*, reported in **2017 0 Supreme (Mad) 419** is concerned, the same has no application to the case on hand, as the said case has the benefit of G.O.Ms.No.1015, Education Department, dated 05.06.1981 and G.O.Ms.No.37, Education, Science and Technology Department, dated 05.01.1983 unlike the case on hand. Hence, the said decision has no application to the facts of the present case.

7. In the light of the above, this Court does not find any merits in the writ petition and accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

12.03.2024

NCC : Yes/No
Index : Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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To

The District Educational Officer,
District Educational Office,
Ramanathapuram.

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MUMMINENI SUDHEER KUMAR,
J.

This matter is listed today
under the caption 'for clarification'.

2. Clarified. The order dated
12.03.2024 shall be treated as final.

22.03.2024

ABR