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W.A.(MD)No.1002 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

W.A(MD)No.1002 of 2024

A.Koil Pillai

... Appellant

VS

**The District Educational Officer,
District Educational Office,
Ramanathapuram.**

...Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 12.03.2024 passed in W.P(MD)No.1965 of 2021.

**For Appellant : Mr.A.Haja Mohideen
For Respondent : Mr.S.Shaji Bino
Special Government Pleader**

JUDGMENT

(Judgment of this Court was delivered by R.SURESH KUMAR, J.)

This intra-court appeal has been directed against the order passed by the Writ Court, dated 12.03.2024, made in W.P(MD)No.1965 of 2021.



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2. The appellant was the writ petitioner who claimed to have been working as a Vocational Instructor in a private aided school and resigned the post in the year 2008 due to personal reason. Before resignation, he worked for 15 years 11 months and 25 days. Therefore, that service shall be taken into account for the purpose of sanctioning pension. Therefore, seeking such pension, the petitioner/appellant had approached the respondent, where, the respondent had rejected the claim of the petitioner/appellant to sanction pension by citing the rules of the Tamil Nadu Pension Rules, 1978.

3. Insofar as that stand taken by the respondent is concerned, it is the plea of the petitioner/appellant that, under G.O.Ms.No.37, Department of Education, Science and Technology, dated 05.01.1983, those who resigned prior to 01.03.1968, that is the crucial date, are entitled to get pension and those who resigned after the crucial date is / are concerned, though they are not entitled to get pension, in peculiar circumstances, that embargo put in under G.O.Ms.No.37 can be relaxed by the State Government. Therefore, in order to relax such a condition enabling the



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petitioner/appellant to get pension, the petitioner/appellant had made a representation to the State Government. However, the said representation was rejected by the respondent by order, dated 15.12.2017 and challenging the same, he had approached this Court and filed writ petition in W.P(MD)No.7921 of 2018, which was disposed on 10.07.2018, wherein, the order of the respondent directing the private School to forward the relevant Government Order enabling the authorities to take a decision was quashed and remitted back the matter for re-consideration under the relevant Rules in vogue.

4. Pursuant to the same, on 31.12.2019, the respondent has passed an order quoting the relevant pension rules and the ineligibility attached with the petitioner/appellant for getting pension and rejected the plea of the petitioner/appellant even to give relaxation as sought for. That is the order which was impugned before the Writ Court.

5. The learned Judge who heard the said writ petition, has dismissed the same by citing the relevant rule in the Tamil Nadu Pension Rules and stated that, since the petitioner/appellant admittedly has resigned



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the post in 2008, those who resigned the post, would not be entitled to seek for pension under the rules, as the past service rendered by such a resigned person would get forfeited.

6. As against the said order passed by the Writ Court dated 12.03.2024, the present appeal has been directed.

7. Heard Mr.A.Haja Mohideen, learned counsel appearing for the appellant and perused the materials placed before this Court.

8. As has been rightly held by the learned Judge who passed the impugned order, under Rule 23 of the Tamil Nadu Pension Rules, 1978, once the employee resigned from a service or post, his past service would get forfeited.

9. Here in the case on hand, it is the appellant's case that he resigned the post in the year 2008, that is, well after the crucial date as per G.O.Ms.No.37, Department of Education, Science and Technology, dated 05.01.1983, but those who resigned after the crucial date also can get



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pension, if the conditions imposed under G.O.Ms.No.37, Department of Education, Science and Technology, dated 05.01.1983, are relaxed by the State Government. He also relied on G.O.Ms.No.1015, Education Department, dated 05.06.1981.

10. When that issue came up for consideration before the respondent, of course, as per the direction issued in this regard in the earlier round of litigation filed by the petitioner/appellant, the State Government has given cogent reasons as to why his case cannot be considered for giving such relaxation, as the petitioner/appellant admittedly, resigned from the service well prior to the crucial date in the Government Order. In fact, his date of appointment, ie., 16.10.1992 is itself much after the issuance of Government Order.

11. Therefore, it was found by the respondent State Government that, it is not a deserving case to be considered even for giving such relaxation for the grant of pension under G.O.Ms.No.37, Department of Education, Science and Technology, dated 05.01.1983. Therefore, the 1st respondent has rejected the plea of the petitioner/appellant through the order



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dated 31.12.2019. The said order having been considered by the learned Judge as per the rule which is in vogue, has also rejected the said writ petition by giving the afore-stated reasons.

12. We are in complete agreement with the said view taken by the learned Judge in view of the rule position as well as the factual matrix, as the case of the petitioner/appellant is not a deserving case for giving such relaxation by the State Government which is the discretion of the State Government and under the rule, the past service rendered by a resigned person since is to be forfeited, such service cannot be restored for the purpose of granting even the minimum pension as sought for by the petitioner/appellant unless and until his case is considered by the State Government as a deserving case.

13. Therefore, the conclusion that has been arrived at by the respondent through the order dated 31.12.2019 as well as the conclusion reached by the learned Judge through the impugned order dated 12.03.2024 are strictly in consonance with the rule position and also on the basis of the



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factual matrix of the case. Therefore, we do not find any error in the said approach of the learned Judge.

14. Resultantly, this Writ Appeal fails. Hence, it is dismissed. No costs.

[R.S.K., J] & [G.A.M., J]
14.06.2024

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

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To

The District Educational Officer,
District Educational Office,
Ramanathapuram.



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R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

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Judgment made in
W.A(MD)No.1002 of 2024

14.06.2024