



WP(MD) No.17037 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.17037 of 2024
and
W.M.P(MD)No.14665 of 2024

Dr.M.Aruthur John

... Petitioner

Vs.

1. The Director of Animal Husbandry,
Tamil Nadu Animal Husbandry Department,
Integrated Animal Husbandry & Fisheries Department Office Complex,
Veterinary Hospital Compound,
Nandanam,
Chennai - 35.

2. The Regional Joint Director,
Tamil Nadu Animal Husbandry Department,
Tirunelveli Region,
Veterinary Hospital Compound,
Sreepuram,
Tirunelveli - 1.



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3. The Regional Joint Director,
Tamil Nadu Animal Husbandry Department,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the impugned proceedings issued by the 2nd respondent bearing No.O.Mu.No.435/Aa1/99 dated 03.02.1999 and the subsequent impugned proceedings issued by the 2nd respondent bearing No.Mu.Mu.16913/Aa1/02 dated 29.03.2003 and quash the same and consequently direct the respondents to sanction forthwith the pension and other monetary and service benefits payable to the petitioner along with arrears of pension by consider the representations submitted by the petitioner dated 19.02.2024.

For Petitioner : Mr.K.Samidurai

For Respondents : Mr.J.Ashok

Additional Government Pleader

ORDER

The present writ petition has been filed seeking a Writ of



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Certiorarified Mandamus to call for the records of the impugned proceedings issued by the 2nd respondent bearing No.O.Mu.No. 435/Aa1/99 dated 03.02.1999 and the subsequent impugned proceedings issued by the 2nd respondent bearing No.Mu.Mu.16913/Aa1/02 dated 29.03.2003 and quash the same and consequently direct the respondents to sanction forthwith the pension and other monetary and service benefits payable to the petitioner along with arrears of pension by consider the representations submitted by the petitioner dated 19.02.2024.

2. Heard Mr.K.Samidurai, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner has been appointed as Assistant Surgeon on 16.11.1965 and resigned on 25.04.1981. The petitioner has put in 15



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years and 4 months long service, at the time of his resignation. As the petitioner was not aware about the voluntary retirement scheme, he did not wait to complete 20 years of service and thereafter, give his willingness for voluntary retirement. Despite the petitioner has completed 15 years of service, he was not sanctioned with any pensionary benefits by citing the reasons that he went on resignation.

5. The petitioner has completed minimum qualifying service as per the Tamil Nadu Pension Rules, 1978. The petitioner has given representation to that effect, but the same has not been considered. Hence, the petitioner has filed the writ petition in W.P(MD)No.7305 of 2024 and the same was dismissed. However, giving liberty to the petitioner to give a representation to the authorities concerned to challenge the earlier rejection orders, dated 03.02.1999 and 29.03.2003. Hence, the petitioner has filed the present writ petition.

6. The learned Additional Government Pleader submitted that the petitioner cannot seek to get the benefits which were not in force at the time when the petitioner went on resignation. This is



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because the scheme of voluntary retirement came in a later point of time and the persons who went on resignation earlier cannot claim that such benefit should be given retrospectively by considering the resignation as voluntary retirement.

7. So far as the legal position of resignation is concerned, it is governed by Section 23 of the Tamil Nadu Pension Rules, which would state that the resignation of a service or post entails forfeiture of past service. For a better understanding the above rule itself is extracted as under :-

“(I) 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.”

8. It is the case of the petitioner, the resignation is a voluntary resignation and it was not with an intention to accept any



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other service and with proper permission as contemplated under the proviso to the above rule. The petitioner who had lost all rights, in connection with the respondent Department, cannot maintain a cause of action on the basis of the orders which he suffered in the year 1999 and 2003. I do not find any merits in this writ petition.

9. Hence, this writ petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

26.07.2024

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



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.17037 of 2024

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