



W.A.(MD) No.745 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE P.VADAMALAI**

W.A.(MD) No.745 of 2018

G.Sethu

... Appellant / Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent / Respondent

Prayer: Appeal filed under Clause 15 of Letters Patent Act to set aside the order dated 13.02.2018 passed by the learned Single Judge in W.P.(MD).No. 17024 of 2012 on the file of this Court.

For Appellant : Mr.D.Malaichamy

For Respondent : Mr.S.Vinayak



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J U D G M E N T

(Judgment of the Court was delivered by **N.SESHASAYEE, J.**)

The appellant admittedly had worked for 9 years 5 months and 9 days as a Watchman with the respondent. As per the Tamil Nadu Pension Rules, 1978, an employee would be entitled to pension only if he had completed 10 years of minimum service. This is a qualifying period of service for seeking pensionary benefits. However, Rule 43(3) of the Tamil Nadu Pension Rules makes certain provision for those employees who had completed 9 years, but fall short of 10 years. According to it, if a Government servant had worked for 9 years and for a period in excess of three months and above, such period beyond the completed 9 years can be reckoned as one half year. In the instant case, the appellant had completed 9 years 5 months and 9 days. This would imply that he can be considered as having completed 9 years and 6 months.

2. The question is whether the appellant is entitled to have his service stretched beyond the 9 years and 6 months and to make it 10 full years of



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completed service. In this regard, learned counsel for the appellant placed reliance on a judgment of the Division Bench of this Court in W.P.No.45465 of 2002, dated 04.10.2007 which finds reference in W.A.No.1466 of 2014.

3. Inasmuch as, the appellant is found not to have completed the minimum qualifying service of ten years in the post from which he retired, the learned Single Judge has held that he would not be entitled to any pension.

4. The learned counsel for the appellant submitted that he has been instructed just now by the appellant that he had earlier worked on a temporary basis in the Police Department for a period of seven years, and Rule 11 of the Tamil Nadu Pension Rules, 1978, enables that any period of temporary service is also reckoned for grant of pension. He submitted that this aspect of the matter was not disclosed in the affidavit filed in support of the writ petition. It is in these circumstances, the learned counsel submits that he may be permitted to withdraw this Writ Appeal with leave to file a fresh writ petition with complete facts.



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5. This Court considers that the request made by the learned counsel appearing for the appellant is fair and reasonable. After all the pension is not a charity which the Government gives. It is earned through long years of service which an employee puts. Therefore, it will be only appropriate that the appellant is allowed to withdraw this Writ Appeal and is granted leave to file a fresh Writ Petition to disclose all the facts.

6. This Writ Appeal is accordingly dismissed as withdrawn. No costs.

(N.S.S., J.)

(P.V.M., J.)

24.04.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

TSG

To

The Commissioner,
Madurai Corporation,
Madurai.



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