



W.A.(MD)No.197 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **28.02.2024**

CORAM:

THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**
AND
THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

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U.Abdul Gafoorkhan,
Engineering Instructor(Resigned),
Ilayangudi Higher Secondary School,
70,Gandhiji Road,
Pudur, Iyayangudi, Sivagangai District

: Appellant/Petitioner

Vs.

1.The Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai,
Chennai.

2.The District Educational Officer,
Sivagangai,
Sivagangai District.

3.The Correspondent,
Ilayangudi Higher Secondary School,
Ilayangudi,
Sivagangai District.

: Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 17.08.2015 passed in W.P.(MD) No.14737 of 2015.



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For Appellant : Mr.B.Saravanan
For Respondents : Mr.P.Gunasekaran for R1
Mr.D.Sadiq Raja
Addl. Govt. Pleader for R2
Mr.R.Devaraj for R3

JUDGMENT

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

The writ appeal has been filed to set aside the order dated 17.08.2015 passed in W.P.(MD) No.14737 of 2015.

2. The appellant/petitioner has filed the Writ Petition to quash the impugned order passed by the Principal Accountant General (Accounts and Entitlement) Tamil Nadu, Chennai in Pen 24/312404851/11-12/misc/3526, dated 08.05.2012 and to direct the respondents 1 and 2 to sanction and pay pension and other attendant benefits to him from the date of resignation namely, 13.06.1981. The Writ Court dismissed the writ petition. Challenging the same, the present writ appeal has been filed.

3. According to the appellant/petitioner, he was appointed as Engineering Instructor in the third respondent school on 14.06.1967. On completion of one year, he was regularized on 14.6.1968. After enjoying the



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enhancement of salary, he had given resignation from service on 13.6.1981, as he has completed 14 years of service. However, after resigning, for the reason that he was out of India, he could not approach the third respondent for getting pension under the Tamil Nadu Pension Rules 1978. After coming back to India, it appears that the Petitioner had approached the first respondent and gave a representation dated 10.11.2011. The third respondent, vide impugned order dated 08.05.2012 rejected the petitioner's request. Hence, the appellant/petitioner has filed the writ petition.

4. Heard the learned counsel for the appellant/petitioner, the learned Standing Counsel appearing for the first respondent, the Additional Government Pleader appearing for the second respondent and the learned counsel appearing for the third respondent and perused materials available on records.

5. It is seen that the Writ Court dismissed the said writ petition, by observing that first of all, the Petitioner at the time of resigning from the post of Engineering Instructor was not legally entitled to get pension for the simple reason that as per Section 23 of Tamil Nadu Pension Rules, the resignation forfeits the pension.



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6. We find that the Writ Court while observing that the Petitioner had kept quiet for about three decades, rightly found that the Petitioner, who is guilty of laches, is not entitled to approach this Court under Article 227 of the Constitution of India. Further, it is well settled legal proposition that this Court will not extend its indulgence to a person who is sleeping over the matter for years together. The Honourable Apex Court, in **JACOB'S CASE (2008 10 SCC 115)** while deprecating the long delay in approaching the Court, rejected the similar reliefs.

7. We are of the view that the Writ Court by following the Tamil Nadu Pension Rules and by following the Judgment of the Apex Court in **JACOB'S CASE (2008 10 SCC 115)**, has rightly dismissed the writ petition. In our opinion, no interference is warranted.

8. In the result, this Writ Appeal is dismissed. No costs.

[V.B.S.,J.] [K.K.R.K.,J.]

skn

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NCC : Yes/No

Index : Yes / No

Internet : Yes



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