



W.P.(MD)No.16619 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.16619 of 2017
and
W.M.P.(MD)No.13230 of 2017

N.Nagalinga Thurai

... Petitioner

versus

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Finance,
Secretariat,
Chennai – 600 009.
2. The Accountant General,
Accounts and Entitlement,
Annasalai,
Teynampet,
Chennai – 18.
3. The Director of Pension,
259, Anna Salai, Block 3,
II Floor,
DMS Compound,
Teynampet,
Chennai – 18.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, seeking
for the issuance of Writ of Certiorarified Mandamus, to call for the records



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pertaining to the impugned order in letter No.Mu.O.74/2017/E2 dated 06.02.2017 on the file of the respondent No.3 and quash the same as illegal and consequently direct the respondent Nos.1 to 3 to count the services of the petitioner from 01.02.1983 to 17.08.1990 and 10.11.1990 to 26.02.1997 in the cadre of Noon Meal Organizer on consolidated pay as per Rule 11(4) of Tamil Nadu Pension Rule, 1978 for the propose of calculation of pension and send pension proposal to the respondent No.2 within the time period stipulated by this Court.

For Petitioner	: Mr.S.Rajasekar for M/s.Lajapathyi Roy and Associates
For R1	: Mr.G.V.Vairam Santhosh, Additional Government Pleader
For R2	: Mr.P.Gunasekaran

ORDER

This writ petition has been filed as against the order of the 3rd respondent, rejecting the request of the petitioner to provide pension by calculating 14 years of service rendered by him as Noon Meal Organizer in the Panchayat Union Elementary School, Kadaladi.

2. The petitioner was appointed as Noon Meal Organizer in the Panchayat Union Elementary School, Kooran Kottai Village, Kadaladi Taluk, on 01.02.1983. Thereafter, he resigned from the post of Noon Meal



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Organizer on 26.02.1997, as he passed in Group-IV services and got appointment as Junior Assistant in the Agricultural Department and he joined the said post on 05.03.1997. Subsequently, the petitioner passed TRB Examination on 01.04.2003 and he was appointed as B.T. Assistant and he rendered his services as Block Resource Teachers Educator at Block Resource Centres till 15.09.2005. Thereafter, on 16.07.2009, the petitioner was transferred to the Government High School as B.T.Assistant. After rendering unblemished service for 26 years, the petitioner retired from service on 31.05.2016. Now, it is the grievance of the petitioner that the second respondent, without considering his past service rendered as Noon Meal Organizer in the Panchayat Union Elementary School from 01.02.1983 to 26.02.1997, has calculated the pension only for the period from 05.03.1997 to 31.05.2016. Therefore, the petitioner submitted a representation to the respondents 1 to 3 on 30.12.2016, requesting them to provide pension by calculating the 14 years of service rendered by him as Noon Meal Organizer in the Panchayat Union Elementary School. However, the 3rd respondent, by the impugned proceedings dated 06.02.2017, rejected the request of the petitioner stating that the previous service cannot be treated as net qualifying service. Challenging the same,



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the present writ petition has been filed.

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3. The learned counsel appearing for the petitioner submits that the petitioner was appointed as Noon Meal Organizer on 01.02.1983 through Employment Exchange and he rendered his service as Government employee from 01.02.1983 till 26.02.1997. Therefore, 50% of the service rendered by him as Noon Meal Organizer has to be considered while calculating the pensionary benefits.

4. The learned counsel appearing for the second respondent/the Accountant General submits that the petitioner has fortified his right and resigned his post, as he got appointment in Group IV services. Therefore, as per Rule 23 of the Tamil Nadu Pension Rules, 1978, the petitioner is not entitled for pensionary benefits for the earlier service rendered by him as Noon Meal Organizer on consolidated pay. Hence, there is no reason to interfere with the impugned order passed by the 3rd respondent.

5. This Court considered the rival submissions and perused the materials available on record.



6. Admittedly, the petitioner was appointed as Noon Meal Organizer on consolidated pay in the year 1983 and resigned his job in the year 1997 as he got appointment in Group-IV service. Now, the petitioner claims that he is entitled for pensionary benefits for the earlier service rendered by him as Noon Meal Organizer from the year 1983 to 1997 and therefore, 50% of earlier service has to be considered while calculating the pensionary benefits.

7. Rule 23 of the Tamil Nadu Pension Rules 1978, deals with forfeiture of service on resignation and the same is extracted hereunder:

“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.”

8. From the above, it is clear that resignation from a service or post entails forfeiture of past service. In this case, the petitioner has resigned from the post of Noon Meal Organizer on 26.02.1997 as he got selected in the Group-IV service and thereby, he has forfeited his past service. Therefore, as per Rule 23 of the Tamil Nadu Pension Rules 1978, the petitioner is not entitled for pensionary benefits for the earlier service rendered by him as Noon Meal Organizer and there is no merits in the writ petition.

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

06.11.2024

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



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To

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