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WP.No.19838 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2025

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THE HONOURABLE MR.JUSTICE K. SURENDER

WP No. 19838 of 2016

V.Padmavathi,

Petitioner

Vs

1. The Additional Director,
Office of the Commissioner of
Municipal Administration, Chepauk,
Chennai-600 005

2.The Director of Local Fund
Audit, Chennai-600 108

3.The Commissioner
Pallavapuram Municipality,
Pallavaram, Chennai-600 044

Respondent(s)

PRAYER

This Writ Petition is filed under Article 226 of Constitution of India seeking Writ of certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in O. Mu. No.7085/ 2016/ B3 dated 6.4.2016 and quash the same and direct the respondents to grant pension to the Petitioner and other retirement benefits with effect from 21.06.2007 together with interest from 21.06.2007.

For Petitioner(s): Mr.P.Mohanraj

For Respondent(s): Mr. V.Veluchamy, AGP for R1 and R2
Mr.P.Srinivas for R3



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ORDER

This Writ Petition is filed challenging the order of the first respondent in O. Mu. No.7085/ 2016/ B3 dated 06.04.2016 and to direct the respondents to grant pension to the petitioner and other retirement benefits with effect from 21.06.2007 together with interest from 21.06.2007.

2. The brief facts of the case are that the petitioner was appointed as Sweeper in Pallavaram Municipality in the year 1989. She submitted her resignation on 02.05.2006 to the Commissioner of Pallavaram Municipality on account of ill-health and her inability to perform the duties of Sweeper. Her request for voluntary retirement was denied on the ground that she did not meet requisite criteria of reaching the age of 50 years and not putting in 20 years of service. The petitioner then requested grant of pensionary benefits. The first respondent, by way of impugned order dated 06.04.2016 vid O.Mu.No.7085/2016/B3, informed the petitioner that as per Rule 23 of the Tamil Nadu Pension Rules, there is no provision in the rules to grant pension benefits to an employee who has resigned from service. Hence, the Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner cannot be denied the benefits under Rule 23, since her resignation was accepted on account of ill-health. In support of his submission, the learned



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counsel relied on the judgment of Hon'ble Division Bench of this Court, in

D.Vijayarangan Vs. Secretary and others in W.P.No.13048 of 2006, wherein

this Court held that apart from two contingencies mentioned in the proviso to Rule 23 of Tamil Nadu Pension Rules, ill-health can also be considered for the purpose of extending pensionary benefits. The relevant para of the judgment is extracted hereunder:

“7. In such a situation, a question arise whether the service of an employee can be forfeited if person asks for resignation on the ground of ill-health, which is allowed by the State.

Under Rule 23, a person is entitled for all benefits if he is allowed to resign for appointment in some other post under the Government. The rule is silent with regard to resignation, if given on the grounds of illness or ill-health for which permission is granted by the competent authority. In case, if it is held that the person, who has resigned because of illness or ill-health, as at par with the class of employees, who resign for misconduct or any adverse record, and the class of employees, who resign to join other government organization are kept in a separate class for grant of pensionary benefits, in such case one may doubt Rule 23 violation of Article 14, vis-a-vis those who resign for illness or ill-health and is accepted by the competent authority. Therefore, we hold that those who resign because of illness or ill-health and not because of any misconduct or adverse record and are allowed to do so by the State are entitled for the same benefit which is allowed to those who resign to join another service under the State. Comparing the employees who are allowed to resign because of illness or ill-health at par with those employees who resign because of misconduct or adverse record will be otherwise violation of Article 14 of the Constitution of India.”



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4. The learned counsel appearing for the respondent on the other hand submit that though petitioner's resignation was accepted, she did not appear before the Medical board, for the purpose of examination. The learned counsel argued that the petitioner's resignation was accepted and she cannot be granted pensionary benefits in view of the Rule 23 of the Tamil Nadu Pension Rules. The learned counsel for the respondent relied on the judgment of the Hon'ble Division Bench of this Court in ***A.Alphonsa mary Vs. The Government of Tamil nadu and others, in*** W.A(MD).No.830 of 2024 and argued that the Court did not concur with the view taken by this Court in ***D.Vijayarangan's case***. It is also submitted by the learned counsel that there is abnormal delay in approaching this Court, hence, prayed for dismissal of the Writ Petition.

5. Heard both sides and perused the records.

6. The argument of the learned counsel for the respondent that the petitioner failed to appear before the medical board has no basis. The fact remains that the petitioner's resignation was accepted due to ill health and the sole reason for denying pensionary benefits is based on Rule 23 of the Tamil Nadu Pension Rules which is extracted hereunder:



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“23. Forfeiture of service on resignation- (1) Resignation from a service or post entails forfeiture of past service:

Provided that a registration 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 failing 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 of by formal condonation to the extent to which the period is not covered by leave due to the Government servant.”

7. Rule 23 entails forfeiture of past service of the employee, when such employee resigns. However, the proviso provides two exceptions:

i) if the resignation is with permission; and

ii) if there is another appointment under the Government where the service qualifies.

Notwithstanding these exceptions, ***D.Vijayarangan’s case*** cited supra extends the benefit to those who resigns on account of ill health. As the petitioner’s resignation was accepted due to ill-health and the **A.Alphonsa, Mary’s case** is distinguishable on facts and does not affect the applicability of the ***D.Vijayarangan’s case*** and in view of the finding in ***D.Vijayarangan’s case***, the Writ Petition deserves to be allowed.



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8. Accordingly, the impugned order of the first respondent in O.Mu.No.7085/2016/B3 dated 06.04.2016, rejecting the request of the petitioner for considering the pensionary benefits is hereby set aside. All the consequential pensionary benefits which accrued to the petitioner in the normal course shall be given to the petitioner, within a period of eight weeks from the date of receipt of copy of this order. No costs.

K.SURENDER, J.
22-09-2025

Jai
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

To

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Municipal Administration, Chepauk,
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2.The Director of Local Fund
Audit, Chennai-600 108

3.The Commissioner
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