



W.P.No.14894 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.14894 of 2020

V. Selvam

.. Petitioner

Versus

1.The State of Tamil Nadu Rep. By its
Principal Secretary to Government,
Finance(pension) Department,
Secretariat, Chennai – 600 009.

2. The Principal Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai – 600 009

2. The Accountant General (A&E),
No.361, Anna Salai,
Teynampet, Chennai – 600 018.

...Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent herein in Letter No.25172/pension/2019 dated 26.06.2019, quash the same and direct the first respondent herein to refix petitioner's scale of pension by applying the calculation for full



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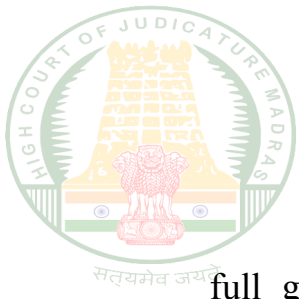
pension and full gratuity and other pensionary benefits in the Grade of Post Graduate Teacher and pass orders.

For Petitioner : Mr.S.V.Karthikeyan
For Respondents : Mr.Alagu Gowtham
Government Advocate

ORDER

This petition is filed to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent herein in Letter No.25172/pension/2019 dated 26.06.2019, quash the same and direct the first respondent herein to refix petitioner's scale of pension by applying the calculation for full pension and full gratuity and other related pensionary benefits in the Grade of Post Graduate Teacher and pass orders.

2.The facts of the case is that the petitioner was appointed as P.G.Assistant in the year 1993 through employment exchange and superannuated on 30.09.2018. The petitioner has rendered 25 years of service and the terminal benefits was calculated accordingly. The grievance of the petitioner is that he was not sanctioned full pension and full gratuity, due to the fact that the Government has fixed 30 years of service for receiving full pension and 33 years of service for receiving



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full gratuity. The sum and substance of the case is that though the petitioner was qualified for appointment even in the year 1985, he was made to wait as per seniority in the Employment Exchange and was appointed to service only in the year 1993, if the petitioner was granted appointment earlier, the petitioner would be entitled for full pension and full gratuity. Hence, he has given a representation in this regard on 03.06.2019 and the same was rejected by the respondent on 26.06.2019 in Letter No.25172/pension/2019, which has given rise to this petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner has made a representation on 30.05.2019 to the respondents herein seeking payment of full pension and full gratuity by reducing the tenure of service or raising the retirement age for entitlement of full pension and gratuity based on the age on which a person can acquire his qualification to be appointed in the post and the respondent by an order dated 26.06.2019 rejected the same by simply stating that the relief claimed is related to the policy decision of the Government. Hence, prays to allow this petition.



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4. The learned Government Advocate appearing for the respondents have filed a counter affidavit, wherein, it has been stated that the petitioner was given all the pensionary benefits to which he is legally entitled to as per the existing Rules and he is no way aggrieved. It is submitted that the relief as claimed by the petitioner are beyond the relevant rule provision and they are purely matters of policy to be decided by the Government in its discretion. Hence, prays to dismiss this petition.

5. I have given anxious consideration to either side submissions and perused the materials available on record.

6. Before advertng further it would be relevant to go through the observation made by the Hon'ble Supreme Court in the case of ***State of Kerala Vs A.Lakshmikutty & Others (1987 AIR 31)*** and the relevant portion is extracted below:-

“ It is well-settled that a Writ of Mandamus is not writ of course or a writ of right, but is as a rule, discretionary. There must be a judicially enforceable right for the enforcement of which a mandamus will lie. The legal right to enforce the performance of a duty must be in the applicant himself. In general, there-fore the Court will only



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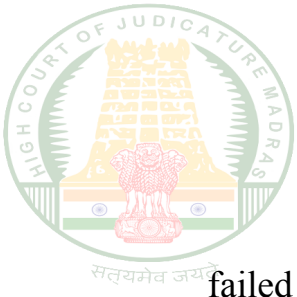


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enforce the performance of statutory duties by public bodies on application of a person who can show that he has himself a legal right to insist on such performance”

7. In view of the above it is made clear that a writ of mandamus can only be issued when there exists a legal right and without a legal right it can't be issued .It is also submitted that a person is said to be an aggrieved person only when his legal rights have been denied by someone who has a legal duty to do something or denied from doing something. The denied legal right must be a legally enforceable right as well as a legally protected right. Any person seeking writ of mandamus must show that he has a judicially enforceable legal right.

8. On a perusal of records it is seen that the petitioner was given all the pensionary benefits to which he is legally entitled as per the existing rule and he is in no way aggrieved. All the claims of the made in the representation dated 30.05.2019 are totally baseless and they are not in accordance with the existing rule provisions and hence they are not feasible of compliance. It is pertinent to note that the petitioner has also



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failed to substantiate that he has a legal right to claim the benefits sought for by him. Hence, there is no infirmity in the impugned order and the same does not require interference by this Court. .

9. For the foregoing reasons this Court is not inclined to accept the contentions of the petitioner as the same is devoid of merits. Hence, this petition deserves to be dismissed. Accordingly this petition is dismissed.
No order as to costs.

18.02.2025

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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To



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V.BHAVANI SUBBAROYAN, J.

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