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W.P.No.1761 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27-01-2025
CORAM
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P. NO. 1761 of 2014

and

M.P No.1 of 2014

Suba Seetharaman
S/o.P.Subbiah Konar, No.3-a, Sivan North Car St,
Palayamkottai 627 002, Tirunelveli

Petitioner(s)

Vs

The Secretary To Government
Cooperation, Food And Consumer Protection
Dept., Fort St. George, Chennai 9 and another

Respondent(s)

WP NO. 1761 of 2014

For Petitioner(s):

M/s. A. R. Nixon

For Respondent(s):

Mr.M.Muthusamy, Government Advocate
For R1 and R2

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records in pursuant to the impugned letter of the 1st respondent in letter No.23340/CH1/2011-8 dated 16.05.2012 and impugned G.O.Ms.No.150 Co-Operation, Food and



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Consumer Protection Department dated 20.10.10 issued by the 1st respondent and quash these orders to the extent of restricting the commencement of pension from the date of G.O.Ms.No.150 and consequently direct the respondents to sanction and disburse the pension with effect from 01.05.1980 in the revised scale of pay with arrears and other consequential monetary benefits.

ORDER

This writ petition is filed challenging the orders dated 16.05.2012 and 20.10.2010 and consequently direct the respondents to sanction and disburse the pension with effect from 01.05.1980 in the revised scale of pay with arrears and other consequential monetary benefits.

The facts of the case in nutshell as per the petition are as follows:-

2.1. The petitioner joined as a Lower Division Clerk in the Co-operative Department on 22.04.1961 and thereafter, as the petitioner wanted to contest in the State Assembly election in the year 1980, he resigned his job and was relieved from service on 30.04.1980. Due to resignation, his past service ought to be forfeited, in view of the Rule 23 of the Tamil Nadu



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Pension Rules, 1978. However, pursuant to the petitioner's representation and earlier order passed by this Court *vide* order dated 10.11.2009 in W.P.No.27789 of 2005, the first respondent had issued Government Order in G.O.Ms.No.150, Co-Operation, Food and Consumer Protection Department, dated 20.10.2010, relaxing Rule 40 of the Tamil Nadu Pension Rules, 1978 and as a special case to the petitioner on compassionate grounds had sanctioned a minimum pension of Rs.3,050/-. The Accountant General, Chennai, also had admitted the minimum pension as compassionate allowances w.e.f. 20.10.2010.

2.2. Thereafter, the petitioner had again made a claim by representation dated 06.09.2011 stating that his entire service period has to be taken into consideration and his pensionary benefits has to be granted, which was rejected by the impugned order dated 16.05.2015. Assailing the said impugned order, the present writ petition is filed.

3. Heard the learned counsel for the petitioner and the learned Government Advocate and perused the materials available on record.



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4. It is an admitted fact that the petitioner who was working as Lower Division Clerk in the Co-operative Department had resigned from service on 30.04.1980, since he wanted to contest in the State Assembly election in the year 1980. As on the date of resignation, the petitioner had only put in services of 19 years and 9 days and as such he did not complete 20 years of qualifying service. As the petitioner has not completed the minimum qualifying service and had completed 55 years of service, then as per Rule 56 (3) of the Fundamental Rules, the petitioner may retire from service by giving notice of not less than 3 months in writing to the appointing authority intimating his intention, provided retirement takes place after completing the qualifying service.

5. However, the petitioner, in the instant case did not complete the minimum qualifying service of 20 years and since he wanted to contest in the State Assembly election, had resigned from service on 30.04.1980 without issuing any notice intimating his intention to retire. As per Rule 23 (1) of the Tamil Nadu Pension Rules, 1978, resignation from service entitles forfeiture



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of past service. In view of the resignation, his past service stood forfeited.

However, the Government had issued G.O.Ms.No.150 Co-Operation, Food and Consumer Protection Department dated 20.10.2010 relaxing Rule 40 of the Tamil Nadu Pension Rule, 1978, as a special case to the petitioner and had sanctioned a minimum pension of Rs.3,050/- as compassionate allowances from the date of issuance of G.O.Ms.No.150, Co-Operation, Food and Consumer Protection Department, dated 20.10.10 and the Account General, Chennai, had admitted the minimum pension as compassionate allowances. As such, the instant claim of the petitioner to treat his services and grant pensionary benefits does not arise and was rightly considered and rejected by the respondents.

6. In view of the above discussions, there are no merits in this writ petition. Accordingly, this writ petition is dismissed. Connected miscellaneous petition is closed. Costs made easy.

27.01.2025

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Index :Yes/No

Internet :Yes/No



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