



W.P. No.19432 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

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

W.P. No.19432 of 2020

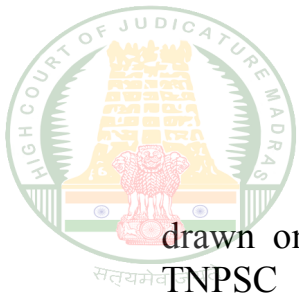
N.B.Punniamoorthi

...Petitioner

VS

- 1.The Secretary,
Personnel and Administrative
Reform (M) Department,
Fort.St.George,
Chennai-600 009.
- 2.The Chief Engineer,
Tamil Nadu Public Works Department,
Kamarajar Salai,
Chennai-600 005.
- 3.The Member Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 003.
- 4.The Principal Accountant General (A&E)
Tamil Nadu, Chennai-600 035.

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus to call for the records of the order passed by the first respondent in Letter No.18205/M1/2018-1 dated 01.10.2019 and to quash the portion of the order holding that the revision of pay, pension, revision of pension and other monetary benefits is not warranted and consequently direct the respondents 1 and 3 to reconsider the petitioner's claim for pension as under Regulation 7(e) of the TNPSC Rules, 1954, by taking into account 22.12.2016, as the date of demitting the post for the purpose of re-fixing the pension and calculating the same based on the emoluments



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drawn on such date and counting the period spent in the post of Member, TNPSC along with the period of service spent in the 2nd respondent Department by considering the petitioner's representation dated 02.01.2019 and pass orders.

For Petitioner : Mr.C.Manishankhar
Senior Advocate
for Mr.S.Senthil

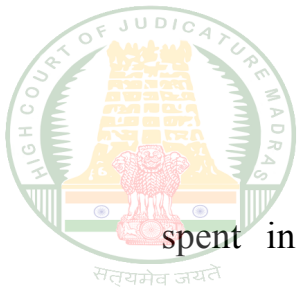
For Respondents : Mr.M.Suresh Kumar
Additional Advocate General
Assisted by
Mr.R.U.Dinesh Kumar
Additional Government Pleader
for R1 and R2

Mr.R.Bharanidharan
Standing Counsel
for R3

R4-No appearance

ORDER

This writ petition is filed challenging the order passed by the first respondent in Letter No.18205/M1/2018-1 dated 01.10.2019 and to quash the portion of the order holding that the revision of pay, pension, revision of pension and other monetary benefits is not warranted and consequently direct the respondents 1 and 3 to reconsider the petitioner's claim for pension as under Regulation 7(e) of the TNPSC Rules, 1954, by taking into account 22.12.2016, as the date of demitting the post for the purpose of re-fixing the pension and calculating the same based on the emoluments drawn on such date and counting the period spent in the post of Member, TNPSC along with the period of service



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spent in the 2nd respondent Department by considering the petitioner's representation dated 02.01.2019.

2. Brief facts:

2.1. The petitioner was appointed as Assistant Draughtsman in Tamil Nadu Public Works Department on 20.03.1981 and regularized as a Junior Draughting Officer on 20.03.1983. Thereafter, he was granted promotion to the post of Draughting Officer on 20.08.2007 and then to the post of Senior Draughting Officer on 07.05.2013. Thereafter, the petitioner was appointed as a Member of the third respondent Tamil Nadu Public Service Commission on 31.01.2016 vide G.O.Ms.No.9, Personnel and Administrative Reforms (M) Department. As per the said appointment, his retirement age is 62 years or 6 years of service, whichever is earlier.

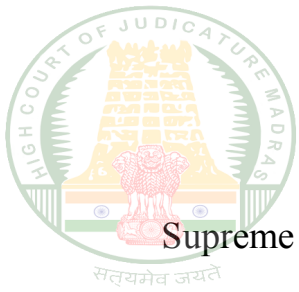
2.2. According to the petitioner, as per Regulation 4(4A) of the Tamil Nadu Public Service Commission Regulation 1954, he has to be deemed to be retired from the post of Senior Draughting Officer from the second respondent service with effect from 02.02.2016. The petitioner has also vide letter dated 17.03.2016 opted for counting his period spent in the post of Senior Draughting Officer to be counted along with his services which he is about to render in Tamil Nadu Public Service Commission as a Member. The petitioner has also



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opted in the said Letter dated 17.03.2016 for counting the leave, pension as well as for counting his GPF account also for counting the service rendered in the post of Senior Draughting officer along with the period to be rendered in the post of Member, TNPSC. Such option were exercised as under Rule 4, Rule 5 & Rule 7 of the TNPSC Regulations 1954. The petitioner was issued with pay fixation order by Pay and Account office (Secretariat) Chennai, in proceedings No.PAO(SECTT) BASIII/U-III/1302/2016 dated 06.04.2016 and allowed to draw a sum of Rs.1,37,720/- including all the allowances.

2.3. Challenging the appointment of the petitioner and other Members, writ petitions in W.P.Nos.4113, 4161 and 4584 of 2016 were filed by some of the political members before this Court. This Court, by order dated 22.12.2016, expect holding appointment of one of the Members as invalid, it was pleased to interfere with the manner of selection, finding that there were certain irregularities in the manner of appointment. Further, it was pleased to permit the first respondent from carrying on fresh selection to the post of Members and there was no embargo for the incumbent members to be reconsidered for the post. Based on the orders, fresh applications were called for and the petitioner's application for consideration to the said post is also pending. Meanwhile the Government of Tamil Nadu preferred SLP before the Hon'ble Supreme Court in SLP No.258-260/2017 and others, which is pending as on date. The Hon'ble



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Supreme Court has stayed a portion of the order and allowed the Government of Tamil Nadu to carry on the fresh selection process. Except making certain appointments, the first respondent has not filled the available entire vacancies. The petitioner's application seeking reappointment is pending.

2.4. In the meanwhile, the petitioner made a request to court the period of service spent in the post of Member, TNPSC and to take account of the emoluments drawn in the post of Member, TNPSC for such re-fixation as per Regulation 7 of the TNPSC Regulations 1954. The request of the petitioner was denied by the first respondent holding that the same is unwarranted and such portion of the Letter is challenged in the present writ petition.

3. Learned Senior Counsel appearing for the petitioner relied upon Regulation 4(4)(A) and 7(4)(e) of the Tamil Nadu Public Service Commission Regulations, 1954 and the same are extracted hereunder:

"4(A) A person who on the date of his appointment as a Member or Chairman of the Commission, was holding a post under the Government of India or the Government of a State, shall be deemed to have retired from such post with effect from the date on which he joins duty as Member or Chairman of the Commission.

Provided that a Member or Chairman who on the date of entering on his duties as such, was in the service of or held a post under the Government of India or the Government of a State,



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may opt within a period of six months from the date of appointment to the Commission, to count the service in the Commission for the purposes of pension and other retirement benefits under the rules applicable to the service or post to which he belonged immediately before his appointment as Member or Chairman of the Commission. The option once exercised shall be final:

Provided further that in the event of such an option being exercised, the Member or Chairman, as the case may be, will be entitled to get his pension and retirement benefits as aforesaid only when he finally lays down his office in the Commission.

...

7(4)(e) A person who has retired from service under the Government of Tamil Nadu or any other body wholly or substantially owned or controlled by that Government and who is in receipt of or has become entitled to receive any retirement benefit by way of pension, gratuity, payment from any Contributory Provident Fund or otherwise, shall, when appointed as Member, be eligible to count his service and pay as such Member, for purposes of pension and other retirement benefits taking his previous service into account and to have the pension and other retirement benefits re-fixed on demitting office as such Member and to draw the pension and retirement benefits as may become admissible, less the amount of gratuity already drawn."

4. Learned Senior Counsel appearing for the petitioner submits that as per the above Regulations, the petitioner who has been retired from service under the Government of Tamil Nadu and subsequently appointed as a Member of TNPSC, is eligible to count his service and pay as such Member, for the purposes of pension and other retirement benefits taking into account his



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previous service rendered in Public Works Department and to fix the pension and other retirement benefits by calculating the periods he has undergone the Services as Member and pass appropriate orders as per the above said Regulations.

5. He has also pointed out that the petitioner has given a letter dated 17.03.2016, wherein he has claimed that under Regulation 7(A) of the Tamil Nadu Public Service Commission Regulations, 1954, he exercises his option to continue to subscribe to the existing GPF Account No.48310/PW in the present post of Member, Tamil Nadu Public Service Commission. The same was acknowledged by the Tamil Nadu Public Service Commission and the petitioner further submits that his pay was not properly fixed and pension has been refused.

6. Learned Senior Counsel for the petitioner also submits that the Tamil Nadu Public Service Commission had recommended the counting of services rendered by the petitioner as Member, Tamil Nadu Public Service Commission. He further submits that petitioner's services for 11 months was not quashed by this court and there were no adverse observation against the petitioner in the judgment rendered by this Court.

7. Learned Additional Advocate General appearing for the first



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respondent would submit that as per the Regulation 4(4A) of the Tamil Nadu Public Service Commission Regulations, 1954, a person who, on the date of his appointment as a Member of the Commission, was holding a post under the Government of a State, shall be deemed to have retired from such post with effect from the date on which he joins duty as Member of the Commission. While the petitioner was serving as Senior Draughtsman in Public Works Department, he was elevated to the post of Member, Tamil Nadu Public Service Commission. Hence, by virtue of Regulation 4(4A) of the Tamil Nadu Public Service Commission Regulation, 1954, the petitioner is deemed to be retired from the past service.

8. He further submits that as per Regulation 7 of the Tamil Nadu Public Service Commission Regulations, a person appointed as Member, Tamil Nadu Public Service Commission can count his services of the said post with his previous service for pension and other retirement benefits. Though the petitioner was appointed as Member, Tamil Nadu Public Service Commission, with effect from 31.01.2016, his appointment was quashed by this Court on 22.12.2016. Therefore, counting the services rendered by the petitioner as Member, Tamil Nadu Public Service Commission for the purpose of pension is not legally tenable. Hence, the request of the petitioner for revision of pension and other retirement benefits in the case of Senior Draughtsman was sent to the



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second respondent.

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9. He further submits that the appointment of the petitioner as Member, Tamil Nadu Public Service Commission has itself been quashed by this Court and by the Hon'ble Supreme Court. The petitioner's candidature has been taken into consideration subsequently while making fresh selection as per the directions of this Court and the Hon'ble Supreme Court, wherein he was not appointed as Member TNPSC in the orders issued in G.O.(Ms) No.57, Personnel and Administrative Reforms (M) Department, dated 19.04.2017. Since the appointment as Member itself has been quashed, the sanction of pension for the services rendered as Member, Tamil Nadu Public Service Commission would be violative of the directions of this Court and the Hon'ble Supreme Court. Since, the appointment of the petitioner as Member of Tamil Nadu Public Service Commission itself was quashed, sanctioning for the services rendered as Member, Tamil Nadu Public Service Commission, would be contrary to the directions of the courts. Therefore, the Letter issued by the respondent rejecting the petitioner's request for pension benefits as a Member is valid in law.

10. Heard the learned Senior Counsel for the petitioner and counsel for the respondent.

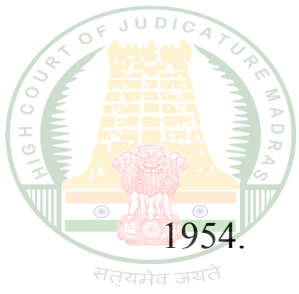


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11. It is clear that, as per Section 7(4)(e) of the Tamil Nadu Public Service Commission Regulations, a person who has retired from service under the Government of Tamil Nadu or any other body wholly or substantially owned or controlled by that Government and who is in receipt of or has become entitled to receive any retirement benefit by way of pension, gratuity, payment from any Contributory Provident Fund or otherwise, shall, when appointed as Member, be eligible to count his service and pay as such Member, for purposes of pension and other retirement benefits taking his previous service into account and to have the pension and other retirement benefits re-fixed on demitting office as such Member and to draw the pension and retirement benefits as may become admissible, less the amount of gratuity already drawn. Further, the TNPSC had also recommended the counting of service rendered by the petitioner as 'Member' in TNPSC.

12. In view of the above said provisions, this Court is inclined to direct the first respondent to consider petitioner's claim in accordance with applicable existing Rules and Regulations. The first respondent shall pass appropriate orders within eight weeks, from the date of receipt of a copy of this order, after affording the petitioner a reasonable opportunity of hearing, in terms of Regulation 7(4)(e) of the Tamil Nadu Public Service Commission Regulations,



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13. The writ petition stands disposed of. There shall be no order as to costs.

03.04.2025

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Secretary,
Personnel and Administrative
Reform (M) Department,
Fort.St.George,
Chennai-600 009.
- 2.The Chief Engineer,
Tamil Nadu Public Works Department,
Kamarajar Salai,
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V.BHAVANI SUBBAROYAN, J.

(mrn)

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