



W.A.(MD) No.352 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A.(MD) No.352 of 2025

K.Alagarsamy

... Appellant

-VS-

1.The District Collector
District Collectorate
Virudhunagar District

2.The Block Development Officer
Thiruchuli Panchayat Union
@ M.Reddiyapatti
Aruppukottai Taluk
Virudhunagar District

3.The Principal Accountant General
O/o.Accountant General
Teynampet
Chennai-600 018

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 16.06.2023, passed in W.P.(MD) No.18160 of 2019, on the file of this Court.



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For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.S.Vinodh
Government Advocate for R1 & R2
Ms.S.Mahalakshmi for R3

J U D G M E N T

DR.G.JAYACHANDRAN, J.
AND
R.POORNIMA, J.

The appellant herein entered in the services of the respondent – Panchayat Board as Part-Time Clerk on 01.10.1967 and continued to be a part-time employee. He was given promotion as RWO Grade-II with effect from 08.12.1993. He attained the age of superannuation on 30.04.2008.

2. Meanwhile, in view of the subsequent Government Order to regularize the services of the part-time employees by taking into account 50% of their part-time services, a batch of writ petitions in W.P.No.7217 of 2015 etc., batch were filed before this Court and the appellant herein is also one among them. While disposing of the batch of writ petitions, by order dated 02.08.2017, the learned Single Judge directed the Government to regularize the services of the writ petitioners, who served as part-time employees or on



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temporary basis and pass appropriate orders in accordance with Rule 11 of the Tamil Nadu Pension Rules, 1978 and communicate the same to the writ petitioners.

3. In the writ petition filed by the appellant herein, his grievance was not only to regularize his services by taking into account 50% of his part-time service, but also to regularize the period of suspension, which he suffered due to the pendency of the departmental disciplinary proceedings.

4. By taking advantage of the disposal of the batch of writ petitions on the issue of regularization of service by taking into account 50% of the part-time / temporary services, the appellant herein had requested the District Collector, Virudhunagar District, to regularize his suspension period also and pass appropriate orders.

5. The said request of the appellant was rejected by the District Collector *vide* order dated 27.06.2018. The said order came to be challenged by the appellant herein before this Court by filing a writ petition in W.P.(MD) No.18160 of 2019.



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6. The learned Single Judge of this Court, on considering the facts of the case and the relief sought for therein, by order dated 16.06.2023, dismissed the writ petition with the following observations:

“2. The petitioner was suspended on 24.07.2000 and was reinstated on 06.05.2001. The respondents have initiated disciplinary proceedings against the petitioner and the same had ended in imposing punishment of stoppage of increment for 3 years with cumulative effect. On appeal, the respondents have modified the punishment, wherein, the stoppage of increment for 3 years was confirmed but without cumulative effect. Aggrieved over, the petitioner again preferred an appeal and the same was confirmed. Thereafter, the petitioner attained superannuation on 30.04.2008. After lapse of 10 years, the petitioner made representation dated 07.05.2018, whereby the respondents after considering the same, has passed the impugned order. Challenging the same, the present Writ Petition is filed.

3. It is seen from the records that the petitioner has filed this Writ Petition after lapse of 10 years. The petitioner cannot endlessly litigate after retirement and also the petitioner has not explained



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the delay. Due to delay and latches, this Writ Petition cannot be entertained.”

7. Being aggrieved by the said order of dismissal, the present writ appeal is filed stating that the order of the learned Single Judge in the batch of writ petitions was challenged by the State by filing W.A.No.896 of 2019, but the same came to be dismissed by the Division Bench of this Court *vide* Judgment dated 06.07.2023. Therefore, the State cannot deprive the appellant herein to take into consideration the period of suspension, which he suffered due to the pendency of departmental disciplinary proceedings, as he was deemed to be in service, while fixing the pensionary benefits.

8. Learned counsel for the appellant submits that the writ petition in W.P.No.7217 of 2015 filed by the appellant includes the prayer to regularize the period of suspension apart from to take into account 50% of the service rendered by him in the post of part-time Clerk along with regular service. Since the said writ petition was allowed with certain directions, the State cannot deny the benefit of regularizing the suspended period as service period.



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9. The learned Government Advocate appearing for the respondents 1 & 2 drew the of this Court to the order passed by the District Collector, Virudhunagar District, on 27.06.2018, which was impugned in the writ petition. He further submitted that neither in the common order passed by the learned Single Judge in the batch of writ petitions nor in the Judgment passed in the writ appeal filed challenging the order passed by the learned Single Judge in the batch of writ petitions, there is reference about the suspension period of the appellant or there is a direction to regularize the suspension period for calculating the pensionary benefits. Hence, the District Collector, in his order, which was impugned in the writ petition has specifically stated that the period of suspension between 24.07.2000 to 06.05.2001 cannot be regularized as the eligible period of service. He further submitted that admittedly, in the writ petition in W.P.(MD) No.7217 of 2015, which was disposed of along with other writ petitions on 02.08.2017, there is no relief granted by the learned Single Judge in respect of regularizing the the period of suspension, which he suffered.

10. The learned Single Judge, in the impugned order, has taken note of the fact that the appellant was placed under suspension on 24.07.2000 and the suspension was revoked on 06.05.2001 and the appellant



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was imposed with a penalty of stoppage of increment for three years with cumulative effect and on his appeal, it was modified as stoppage of increment for one year without cumulative effect. Whileso, the relief sought to regularize the suspension period as service period, which was earlier sought but not addressed in the earlier round of litigation, was taken into consideration by the learned Single Judge, however, it was rejected on the ground that there is a lapse of more than ten years on the part of the appellant in approaching the authority concerned.

11. Learned counsel for the appellant would submit that the appellant retired from service in the year 2008 and he had been agitating for regularization of his suspension period as service period since 2015 and his prayer in W.P.No.7217 of 2015 apart from to take into account 50% of his part-time service, was to regularize his suspension period and therefore, he would submit that the principle of delay and laches will not apply in this case, more so, when the relief sought for by the appellant is with regard to refixing pensionary benefits, which is a continuous cause of action.

12. This Court, after giving its anxious consideration to the facts canvassed before us and also the law governing the services of the part-time /



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temporary employees, whose services regularized subsequently pursuant to the Government Orders, finds that the appellant herein is entitled for regularization of service pursuant to the Government Orders by taking into account 50% of his part-time service, however, the period of suspension due to the pendency of the disciplinary proceedings cannot be taken into account as a service period, unless and until, the Disciplinary Authority thought fit to regularize the suspended period as service period and passes a specific order to that effect.

13. The appellant, who suffered a punishment of stoppage of increment for three years with cumulative effect, had agitated the cause by preferring an appeal and further appeal and partly succeeded in getting the punishment order modified to stoppage of increment for one year, but without cumulative effect. Being not satisfied with the modified order, the appellant filed O.A.No.1595 of 2003 before the Tamil Nadu Administrative Tribunal, which was transferred to the High Court and re-numbered as W.P.No.9500 of 2007, wherein this Court by order dated 12.11.2014, dismissed the said writ petition finding that the Appellate Authority took a lenient view in this matter and reduced the punishment and also the punishment would have no effect on the pensionary benefits of the appellant.



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14. The record reveals that in the departmental disciplinary proceedings initiated under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, a punishment of stoppage of increment for three years with cumulative effect was imposed by the first respondent *vide* order dated 29.06.2001 along with recovery of a sum of Rs.1,923/-. The said punishment was modified by the Appellate Authority *vide* order dated 25.06.2002 as stoppage of increment for one year without cumulative effect. Further writ petition before this Court was dismissed on 12.11.2014. In the interregnum period, the appellant had attained the age of superannuation on 30.04.2008 and had come to this Court seeking to regularize his suspension period as service period for pensionary benefits in the year 2015.

15. In fact, the order passed in the disciplinary proceedings by the Disciplinary Authority, dated 20.07.2000, leading to revocation of suspension being accepted by the appellant and he not claimed the benefit of regularization of the suspension period as service period for more than fifteen years. Hence, cannot now be re-looked when the suspension order was justified by the later punishment order, which has been confirmed by this Court. If at all the appellant has any grievance, it can only be with regard to



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any omission in considering his past part-time services, which he has rendered and he cannot have any claim for the period, which he had not served, in other words, the period of suspension.

16. With the above clarification, this writ appeal is disposed of.

No costs.

[G.J., J.]

[R.P., J.]

21.02.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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