



W.P.(MD)No.8626 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2025

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.8626 of 2019

M. Sundaramahalingam

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Anna Maligai,
Tallakulam,
Madurai – 625 002.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a ***Writ of Certiorarified Mandamus***, to call for the records relating to the order passed by the respondent in Ma.Ni.27/028318/2017 dated 08.11.2017 and quash the same and consequently direct the respondent to pay the pension to the petitioner.

For Petitioner : M/s.T.C.S.Thillainayagam

For Respondents : Mr.S.Vinayak

ORDER

Under assail is the proceedings, dated 08.11.2017 passed by the respondent in Ma.Ni.27/028318/2017 rejecting the request of the writ petitioner stating that the petitioner resigned from service is not entitled for getting pensionary benefits.



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2. Heard M/s.T.C.S.Thillainayagam, the Learned Counsel appearing on behalf of the Petitioner and Mr.S.Vinayak, the Learned Counsel appearing on behalf of the Respondent Corporation.

3. It is the case of writ petitioner is that the petitioner was appointed as Attender in the Municipal Office, at Meenakshi Nilayam attached to the Central Bus Stand on 16.07.1954 through the order passed by the Commissioner, Municipal Office, Madurai. Without any blemished records and resigned from service after completion of 10 years service upto 1964. Moreover, the petitioner resigned his post in order to participate in the local body election to the year 1964. The petitioner has made several explanations as in person before the respondent herein for the payment of old age pension, but the respondent has not considered the same. Even then, on 15.09.2017 he sent a detailed representation, but the respondent has simply rejected his representation stating that he had rendered service to the respondent and resigned his post in the year 1964 and therefore granting pension was rejected. Hence, the writ petition.

4. The Learned Counsel appearing on behalf of the writ petitioner would submit that the order impugned came to be passed



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contra to the statutory pension rule. If a person has completed 10 years of service he is eligible for pension and therefore, the petitioner is eligible to get pension under relevant pension rules. He has relied on the G.O.Ms.No.212, dated 20.02.1990 to show that the Government order has been issued that the person who had not put in minimum 10 years of qualifying service are not eligible for regular pension and as qualifying service falls below the minimum 10 years of service prescribed under the rules for eligibility of the pension.

5. Per contra, the Learned Counsel appearing on behalf of the respondent would submit that the petitioner has resigned his post in the year 1964 and there is no pension rules mandated that a person resigned from the post entitled to get pensionary benefits. He would further submit that the G.O.Ms.No.212 relied by the petitioner with regard to the person who retired from service and not having 10 years of qualifying service and the same is not applicable to the petitioner. He would further submit that the petitioner has resigned his job in the year 1964 and after lapse of more than 55 years, the present writ petition came to be filed.



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6. This Court considered the rival submissions made on either side and perused the available records.

7. It is not in dispute that the petitioner was appointed as Attender in Municipal Office in the year 1954. He resigned his job in the year 1964. He submitted a representation, dated 15.09.2017 requesting to provide the pension benefits. It is pertinent to mention that after lapse of more than 55 years, he requested for granting pension. There is an inordinate delay in approaching the Court. At this juncture, it is relevant to cite the following order rendered by the Hon'ble Supreme Court of India in the case of,

(i) *S.S. Balu Vs. State of Kerala (2009) 2 SCC 479.* The relevant portion is extracted hereunder:

.....

“17. It is also well-settled principle of law that 'delay defeats equity'....It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment”.



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And also in the case of ***Vijay Kumar Kaul V. Union of India, (2012) 7***

SCC 610, in which the Hon'ble Supreme Court has held as under:

.....

“It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one merits into total insignificance and paves the path of extinction with the passage of time.

It is pertinent to mention that neither has it been pleaded nor is it apparent from the material on record that the Respondent was unable to approach the court-of-law in time on account of any social or financial disability. Had such been the case, he ought to have availed free legal aid and should have ventilated his grievances in a timely manner.”

8. The petitioner has not cited any Act or rules, which provides that the petitioner is entitled for pension benefits after his resignation from job. The petitioner has failed to substantiate his claim. There is an inordinate delay in approaching this Court. There is no merit in this case, there is no reason warranted to interfere with the order impugned.



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9. In the result, this Writ petition stands dismissed. No

Costs.

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NCC : Yes / No

Index : Yes / No

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KSA



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To
The Commissioner,
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M.JOTHIRAMAN, J.

KSA

Order made in
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