

W.P(MD)No.17174 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 22.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD). No.17174 of 2022 and
WMP(MD) Nos.1686 of 2023, 12537 & 12539 of 2022

K.S.Subbiah.

... Petitioner

Vs

1.The Commissioner /Director,
Survey and Land Records Department,
Chepauk,
Chennai.

2.The Accountant General (A & E),
O/o. the Accountant General (A &E),
No.361, Anna Salai,
Chennai - 600 018.

3.The Assistant Director of Survey and Land Records,
O/o. The District Survey Department,
Tirunelveli,
Tirunelveli District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd Respondent in his proceedings No.E51/1/15100820/ADK dated



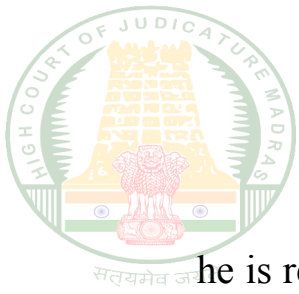
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23.07.2019 and quash the same as illegal and consequentially to direct the Respondents to calculate the half of the service rendered by the petitioner as Field Surveyor Grade-III from 01.06.1953 to 20.05.1959 for the purpose of pension in terms of Rule 25 of the Tamil Nadu Pension Rules, 1978 within the period that may be stipulated by this Court.

For Petitioner	: Mr.Nawaz Khan for M/s.Ajmal Associates
For Respondents	: Mr.K.Balasubramani Special Government Pleader

ORDER

The petitioner has joined the Survey Department as a Field Surveyor Grade III in the year 1953 and worked till 1962. Consequent to the cancellation of Madras Survey and Land Records Subordinate Temporary Service Rules with effect from 01.10.1966, the petitioner was brought under regular time scale of pay from 01.10.1966. Thereafter, he was promoted as a Firka Surveyor at Taluk Office, Nanguneri, Tirunelveli and also promoted as a Deputy Surveyor. He has retired from service on 31.05.1990 on attaining the age of superannuation. The grievance of the petitioner is that though



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he is receiving pension, by calculating his regular service period of 23 years from 01.10.1966 to 31.05.1990, the service rendered by him from 01.06.1953 to 20.05.1959 for a period of six years, out of which, half of the service has not been included for the purpose of calculation of pension. Therefore, the petitioner has made representation and the same was rejected by the second respondent, by his proceedings dated 23.07.2019. Challenging the same petitioner has approached this Court in the year 2022.

2.The learned counsel appearing for the petitioner submits that the service rendered by the petitioner from 01.06.1953 to 25.05.1959 needs to be considered and half of the period has to be calculated for pension benefits. The learned counsel by referring to Rule 25 of the Tamil Nadu Pension Rules, 1978 submits that if there is any interruption in between two spells of service rendered by the Government servant shall be treated as automatically condoned and the said pre-interruption service period should be treated as qualifying service. However, the petitioner was denied.

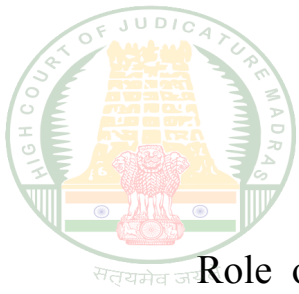


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3.The learned Special Government Pleader appearing for the respondents submits that the impugned proceedings, dated 23.07.2019 has been passed by the second respondent that the petitioner has resigned his post of Surveyor on 20.05.1959 and re-instated on 03.12.1962 and therefore, the period before 03.12.1962 had not been condoned or regularized by the Departmental Officer and in the absence of any records in the service register, the period cannot be taken as qualifying service for pension as per Rule 23(1) of the Tamil Nadu Pension Rules, 1978. He further submits that after a long period of 30 years from the date of his superannuation, the petitioner has filed this writ petition and therefore, it is liable to be dismissed.

4.Considering the issue involved in this writ petition and in order to ascertain the real facts, this Court in an earlier occasion directed the respondent Department to produce the Service Register of the petitioner. Accordingly, the Assistant Director of Survey and Land Records /the third respondent herein has filed an additional typed set of papers enclosing a copy of Service Register, temporary service



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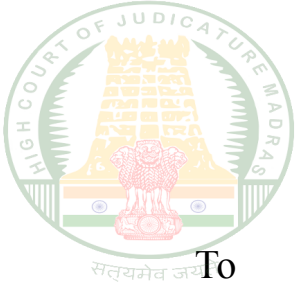
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Role of this petitioner for the years 1953, 1959 and 1962, which reveals that this petitioner was appointed as a temporary Field Surveyor, Grade III on 01.06.1953 in Ramnad, on a consolidated pay of Rs.50/-; he has resigned his job on 20.05.1959; he was re-inducted on 03.12.1962, in the scale of pay of Rs.90/- and his service has been regularized from 03.12.1962. The service register details furnished by the third respondent reveals that this petitioner was not continuously working from 01.06.1953 till 03.12.1962. Moreover, he has also made this claim after 30 years from the date of his retirement. The service benefits, if any claimed after the substantial period cannot be entertained.

5.In view of the above, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

22.01.2025

NCC:Yes/No
Index:Yes
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