



WEB COPY

WP No.30556 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2026

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

WP No. 30556 of 2019

R.Murugesan

Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
School Education Department,
Fort St. George, Chennai - 600 009.

2.The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The Joint Director of School Education
(Pension Unit), College Road,
Nungambakkam, Chennai - 600 006.

4.The Chief Educational Officer,
Dharmapuri District, Dharmapuri.

Respondents

PRAYER Writ Petition filed under Article 226 Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd Respondent, dated 13.06.2018 in Na.Ka.No.29609/C3/E2/2016, and of the 2nd Respondent dated 08.01.2019 in Na.Ka.No.296091/R1/E3/2016, and the consequential order of the 4th Respondent, dated 19.06.2019 in Na.Ka.No.4822/E1/2018, and quash the same and consequently direct the Respondents to forthwith pay the Pensionary benefits to the Petitioner.



Petition in W.P.No.10751 of 2016 praying for a direction to the respondents to settle all his service benefits for the period from 04.10.1968 to 30.11.1983; that this Court by order dated 22.03.2016 had dismissed the writ petition on the sole ground of delay; that aggrieved by the aforesaid order of dismissal, the petitioner had filed W.A.No.660 of 2016; that the Division Bench of this Court by order dated 26.05.2016 while noting that the petitioner having voluntarily opted to retire from service on 30.11.1983 and the respondents having not come forward to pay the service benefits to him, directed the respondents to consider the representation of the petitioner, dated 17.02.2016, and pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of that order.

5. It is the further case of the petitioner that pursuant to the order of this Court dated 26.05.2016, the 4th respondent by proceedings dated 14.12.2016, directed the petitioner to produce several Certificates and documents; and that the petitioner had produced the Police Certificate dated 05.12.2017, the Certificate of Tahsildar, dated 07.12.2017, Income Certificate dated 08.12.2017 and the recommendation of the Headmaster of the Government High School, dated 09.07.2018 recommending to the respondents to pay pensionary benefits to the petitioner for the period from 07.10.1968 to 30.11.1983 by relaxing Rule 23 (1) of the Tamil Nadu Pension Rules, 1978. (for short Pension Rules, 1978).



6. The petitioner further contends that the respondents by proceedings dated 13.06.2008, had accepted his resignation on the ground of deemed resignation under Rule 41-A(C) of the The Tamil Nadu State and Subordinate Service Rules (in short 'TNSSS Rules') and directed the Chief Education Officer to give the particulars of any audit objection or any amount due from the petitioner in order to process the application of the petitioner; that the respondents having not passed any orders accepting the resignation submitted by the petitioner dated 30.11.1983 till he had obtained orders from this Court in W.A.No.660 of 2016, dated 26.05.2016, the claim of the respondents of deemed acceptance of resignation under Rule 41-A(C) of TNSSS Rules, is wholly misplaced as the said Rule was inserted by amendment dated 17.06.1998 and was not in force when the petitioner had submitted his resignation and thus, the order of the 3rd respondent, is illegal and unsustainable in law.

7. The petitioner further contends that as the respondents have not complied with the direction of this Court dated 26.05.2018, he had initiated Contempt Proceedings; that the 2nd respondent, on hearing of the filing of Contempt Petition, had issued an order dated 08.01.2019 stating that the request of the petitioner for grant of pension could not be accepted in view of Rule 23(1) Pension Rules, 1978; and that the 4th respondent by order dated 19.06.2019, refused to accept the petitioner's application for grant of pension



based on the said Rule 23(1) of Pension rules, 1978 which it is contended as contrary, arbitrary and unreasonable.

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8. Counter affidavit on behalf of the 4th respondent is filed.

9. On behalf of the 4th respondent, it is contended that since, the petitioner had resigned from his post voluntarily and was not declared invalidated, the petitioner is not entitled for being granted pensionary benefits.

10. On behalf of the respondents, it is also contended that the petitioner having submitted his resignation in November 1983, had kept quiet till he approached this Court for the first time in the year 2016 and thereafter by filing a Writ Appeal against the order of learned Single Judge of this Court, dismissing the writ petition on the ground of delay.

11. On behalf of the respondents, it is contended that the Hon'ble Division Bench of this Court while disposing of the Writ Appeal, had directed the respondents to consider the representation of the petitioner dated 17.02.2016 and pass appropriate orders in accordance with law; that the respondents having regard to Rule 23(1) of the Pension Rules, 1978, have construed that the petitioner had forfeited his service by submitting resignation and thus, issued



the impugned proceedings informing him of he not being eligible for grant of pensionary benefits. Contending as above, the respondents seek for dismissal of the writ petition.

12. When the writ petition was taken up for heating, this Court had brought to the notice of the learned counsel for the petitioner the decision of the full Bench of this Court dated 03.02.2026 in W.P.No.39583 of 2015 and W.P.No.26986 of 2011 whereby the full bench of this Court taking note of the provisions of the Tamil Nadu Pension Rules, 1978, had held that resignation from service even on medical or health ground entails forfeiture of past service and as such the case of the petitioner is squarely covered by the aforesaid decision.

13. The learned counsel for the petitioner sought a days' time to go through the aforesaid order of the full bench of this Court and makes his submission.

14. When the Writ Petition was taken up again today, the learned counsel for the petitioner made further submission that since, the resignation submitted by him on 30.11.1983 was not accepted by the respondents by passing any order, it cannot be construed as he having given up his employment.



15. The learned counsel for the respondents would also contend that since the petitioner was invalidated on account of the accident he had met with, he should be treated as a discharged on account of medical invalidation which entitles him from being granted pensionary benefits.

16. Insofar as the application of the petitioner of being entitled for grant of pensionary benefits on the ground of medical invalidation is concerned, it is to be noted that only when the invalidation is certified by the medical board, the petitioner would be entitled for being grant of pension benefits.

17. Admittedly in the facts of the present case, no material is placed on record to show that the petitioner having sought for invalidation on medical ground and being subject to any medical examination by the medical board for him to claim of being entitled to be granted pensionary benefits on that ground.

18. Insofar as the resignation submitted by the petitioner though on medical ground and the claim that the same having not been accepted by the respondents thereby he being entitled to be granted pensionary benefits, it is to be noted that the petitioner on submission of his resignation from service on 30.11.1983, did not attend to the duties / service for him to claim that on account of the respondents not being accepted, he continued to discharge his duties. The absence of the petitioner from attending to duties after submitting



his resignation later will have to be construed as the petitioner having given up his employment voluntarily which also disentitles him from being granted pensionary benefits.

19. Further the Full Bench of this Court while answering the reference, held that,

A) 'Resignation' from a service or post as per Rule 23 of the Tamil Nadu Pension Rules, 1978 entails forfeiture of past service. Therefore, resignation from service even on medical or health grounds entails forfeiture of past service.

B) The grounds based on which resignation is sought is immaterial and resignation shall only mean forfeiture of past service.

*(C) There is a valid distinction between 'resignation' and 'voluntary retirement' as held by the Three Judge Bench of the Hon'ble Supreme Court in "**Senior Divisional Manager LIC and Ors. Vs Shree lal Meena**". Therefore, resignation from service cannot be treated as voluntary retirement.*

20. In the light of the decision of the Full Bench of this Court, the claim of the petitioner of he being entitled for pensionary benefits, cannot be sustained. Accordingly, this writ petition stands dismissed. No costs.

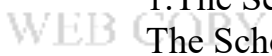
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Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No



1. The Secretary to Government,
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Fort St. George, Chennai - 600 009

3.The Joint Director of School Education
(Pension Unit), College Road,
Nungambakkam, Chennai - 600 006.

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