
(2009) 08 MAD CK 0457

In the Madras High Court

Case No : Writ Petition No. 34460 of 2006

P.R. Suryanarayanan

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 12-08-2009

Acts Referred:

Citation : (2009) 08 MAD CK 0457

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : Prasanna Devi, for the Appellant; R. Neelakandan, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner has filed O.A. No. 1390 of 1998 before the Tribunal challenging the Orders dated 18.12.1989, 22.05.1992 and 22.04.1997 issued by the State Government. The prayer of the petitioner is after quashing the said orders, to direct the respondents to consider his service as Director of Treasuries and Accounts from 30.11.1982 to 28.02.1983 and accordingly refix his pay in the post of Director of Treasuries and Accounts.

2. The petitioner, even at the time of filing the Original Application was 72 years and got retired from the post of Pay and Accounts Officer (South). The petitioner has chosen to file the Original Application after 14 years of his retirement. The claim made by the petitioner in the Original Application relate to the period of services rendered him. In any event, the petitioner attacked the order issued in G.O.Rt. No. 1327, Finance (T&A) Department dated 30.11.1982, which may be usefully extracted below:

The Government direct that Thiru. P.R. Suryanarayanan, Pay and Accounts Officer (South), shall hold additional charge of the post of Director of Treasuries and Accounts with effect from the afternoon of 30.11.1982. He shall discharge only the current duties of the post.

3. On notice from the Tribunal, the first respondent/State has filed a counter affidavit dated 11.07.2000. In Para-7 of the counter affidavit, it is stated that the petitioner was not entitled for additional pay in terms of Fundamental Rules 49(1)(ii). It is also stated that the post of Director of Treasuries and Accounts falls under the category of Class I Officer in Tamil Nadu State and Treasuries Accounts Services and the petitioner was not promoted to Class I post but was given only an additional charge to discharge urgent current functions of the posts.

4. In view of the abolition of the Tribunal, the matter stood transferred to this Court and re-numbered as WP No. 34460 of 2006.

5. Rule 49(1)(ii) of Fundamental Rules prescribes that "No additional pay shall be granted for holding additional charge of current duties of one or more posts." This is also clearly indicated in the order designating the petitioner as Director of Treasuries and Accounts. If the petitioner was not willing to discharge the said functions, he could have declined to hold the higher post. The petitioner, having served in the post with the condition attached to the functions of the said post, cannot turn back and demand higher pay, that too, after two decades of serving in the said post and 1 1/2 years of his retirement.

6. The learned Counsel for the petitioner drew the attention of this Court to the decision rendered by the Honourable Supreme Court in Selvaraj Vs. Lt. Governor of Island, Port Blair and Others, in support of her contention. In that case, a primary school teacher attached to middle school was asked to look after the duties of Secretary of Scouts under GFR 77 and he was informed that his pay will be drawn against the post of Secretary of Scout under FR 77. When the same was not forthcoming, he moved the Central Administrative Tribunal, Port Blair. The contention of the appellant therein was negated by the Tribunal stating that he was not regularly posted in the said post, but he was merely asked to look after the duties of Secretary of Scout. The Honourable Supreme Court rejected the said argument on the ground that in the order designating the said individual to the higher post, it is stated that his pay will be drawn against the post of Secretary (Scouts) under GFR 77. The Honourable Supreme Court applied the principles of quantum meruit inasmuch as the appellant therein had actually discharged his duty in the higher post.

7. It is not clear as to how the said case will help the case of the petitioner. In the present case, the petitioner was designated as Director of Treasuries and Accounts and he was merely asked to look after the current duties, which is squarely covered under Rule 49(1)(ii) of Fundamental Rules. The claim of the petitioner is therefore devoid of merits and consequently the writ petition is dismissed. No costs.