

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.*16899 of 2015
and M.P.No.1 of 2015

M.Ramasamy

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Fort St.George, Chennai - 09,
2. The Director of Elementary Education,
College Road, Chennai - 6,
3. The District Elementary Education Officer,
Nagapattinam District,
4. The Assistant Elementary Education Officer,
Myladuthurai,
Nagapattinam District,
5. The Accountant General of Tamil Nadu,
Anna Saalai,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order issued by the 4th respondent in proceedings Na.Ka.No.331/A1/2013 dated 15.09.2014 and quash the same and consequently direct the respondents to count 50% of the services rendered by the petitioner from 05.03.1984 to 03.03.1994 as qualifying service and accordingly revise his pension and pensionary benefits and pay the arrears within a stipulated period.

For Petitioner : Ms.S.M.Subramaniam

For Respondents : Mr.K.V.Dhanapalan,
AGP for RR.1 to 3
Mr.V.Vijayshankar for R.4

ORDER

Heard both sides. Mr.K.V.Dhandapalan, learned Additional Government Pleader takes notice for the respondents 1 to 3. Mr.V.Vijayshankar, learned counsel takes notice for respondent No.4. By consent of both the parties, the writ petition is taken up for final disposal.

2. The petitioner initially joined as a Part Time garden instructor from 1975 onwards. While so, he was appointed by order dated 3.3.1984 as a night watchman in the Middle School Panchayat Union, Aanathandavapuram by the Assistant Elementary Educational Officer, Myladudurai. He was regularised in service on 4.3.1994. The order appointing the petitioner as a night watchman is enclosed at page No.1 of the typed set of papers filed along with the writ petition. The Government Order in G.O.(3D) No.105 School Education Department dated 18.7.2012 regularising his service with effect from 4.3.1994 was enclosed at page No.9 of the typed set of papers. The petitioner retired from service on 31.12.2010 on reaching the age of superannuation. The grievance of the petitioner is that 50% of service from 5.3.1984 to 4.3.1994 is not taken into account for pension along with his regular service from 5.3.1994 till his retirement on 31.12.2010. As per Rule 11(2) of the Tamil Nadu Pension Rules, 50% of the service from 5.3.1984 to 4.3.1994 has to be counted along with regularised service for the purpose of pension. In support of his contention, the petitioner has relied on the decision of the Hon'ble Division Bench of this Court in W.A.Nos.27 and 28 of 2012 dated 13.02.2012 (Government of Tamil Nadu rep. by its Secretary to Government Vs. M.Gopal), which was confirmed by the Hon'ble Apex Court in SLP Nos.14838-14839 of 2012 on 10.05.2012. The Government implemented the same in G.O.Ms.No.183, Environment and Forests (FR-2) Department, dated 18.07.2012. Further, I have also passed an order in detail to count 50% of service rendered before regularisation in the case of P.Chinniyan Vs. State of Tamil Nadu, reported in (2014) 6 MLJ 316.

3. In view of the same, a direction is issued to the 4th respondent to count 50% of the service of the petitioner from 5.3.1984 to 4.3.1994 along with his regular service from 5.3.1994 to 31.12.2010 and send proposal for pension and other terminal benefits of the petitioner to the 5th respondent within a period of six weeks from the date of receipt of copy of this order. The 5th respondent is directed to authorise pension within a period of two weeks thereafter.

4. The writ petition is disposed of accordingly. However, there is no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)
Dated : 22.06.2015

***Corrected and made herein
as per the letter dated 05.08.2015
Sd/- Assistant Registrar
Dated : 05.08.2015**

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
School Education Department,
Fort St.George, Chennai - 09, To be substituted
2. The Director of Elementary Education,
College Road, Chennai - 6, to the Order
3. The District Elementary Education Officer,
Nagapattinam District already despatched
4. The Assistant Elementary Education Officer,
Myladuthurai,
Nagapattinam District and made herein.
5. The Accountant General of Tamil Nadu,
Anna Saalai,
Chennai.

+1cc to M/s.S.M.Subramaniam, Advocate, S.R.No.29066

W.P.No.*16899 of 2015

UG(CO)
EU(24.06.2015)
CA(06/08/2015)