

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2015

CORAM:

THE HON'BLE MR.JUSTICE D. HARIPARANTHAMAN

W.P.No.19755 of 2015

R.Venkatesan

.. Petitioner

vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Highways Department,
Fort St. George, Chennai - 600 009.

2. The Principal Director,
Highways Department,
Chepauk, Chennai - 600 005.

3. The Divisional Engineer (C and M),
Highways Department,
Vellore Region, Vellore District.

4. The Principal Accountant General
of Tamil Nadu,
No.361, Anna Salai,
Teynampet, Chennai - 600 018.

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the respondents 1 to 3 to count half of the service rendered by the petitioner under Non-Muster Roll category from 04.03.1982 till 12.05.2005 along with regular service rendered by him as Cleaner from 13.05.2005 and as Mechanic Grade II from 07.11.2013 till the date of his retirement namely, 31.12.2014 as qualifying service, send the revised proposal to the fourth respondent, to grant pension to the petitioner with all consequential monetary benefits.

For Petitioner : Mr.S.Mani

For Respondents : Mr.S.Gunasekaran
Govt. Advocate for RR 1 to 3
Mr.Vijayashankar for R4

O R D E R

Heard both sides.

2. According to the petitioner, he joined as Casual Labour in Non-Muster category (NMR) in the Highways Department on 04.03.1982 and served so till 31.03.2001.

3. While so, the petitioner filed O.A.No.4435 of 1996 before the Tamilnadu Administrative Tribunal seeking for regularization of his service in terms of G.O.Ms.No.95, Transport Department, dated 04.02.1988. The Tribunal by an order dated 27.11.2002 issued a direction to the Department to consider his claim.

4. The Government issued G.O.Ms.No.102, Highways Department, dated 13.05.2005, regularising the service of the petitioner in the cadre of Cleaner prospectively from the date of issuance of the G.O. Thereafter, he was promoted as Mechanic Grade II on 07.11.2013.

5. While so, the petitioner filed W.P.No.27785 of 2011 seeking a direction to the respondents therein to regularise his service from the date of his initial appointment. The said writ petition was allowed by this Court by an order 10.10.2012, ordering regularization from the date of appointment, without monetary benefits.

6. The respondents filed W.A.No.860 of 2013, which was allowed by this Court on 10.12.2013 and the review application filed against the order of the Division Bench was also dismissed on 16.10.2014.

7. While so, the petitioner retired from service on 31.12.2014. He submitted a representation dated 20.02.2015 seeking to count half of the services rendered by him as a daily wage employee along with regular service for the purpose of pension.

8. The grievance of the petitioner is that 50% of the services rendered by him prior to regularisation is not taken into account for the purpose of pension and other benefits as per Rule 11(2) of the Tamil Nadu Pension Rules. He submitted that while the employees serving in many other Departments granted the relief of counting half of the service rendered before regularization along with regular service, the same treatment was not given to him.

9. 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.

10. The learned counsel for the petitioner also relied on my judgment in P.Chinniyan Vs. State of Tamil Nadu, reported in (2014) 6 MLJ 316, wherein, I have passed an order in detail to count 50% of service rendered before regularisation along with regular service.

11. In these circumstances, the writ petition is disposed of directing the first respondent to count 50% of service rendered by the petitioner before regularization along with the service rendered after regularization for the purpose of pension and other terminal benefits in the light of Rule 11(2) of the Tamil Nadu Pension Rules and also the judgments referred to above and submit proposal for the terminal benefits for authorization before the fourth respondent, within a period of eight weeks from the date of receipt of a copy of this order and the fourth respondent is directed to authorize the same within a period of two weeks thereafter. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

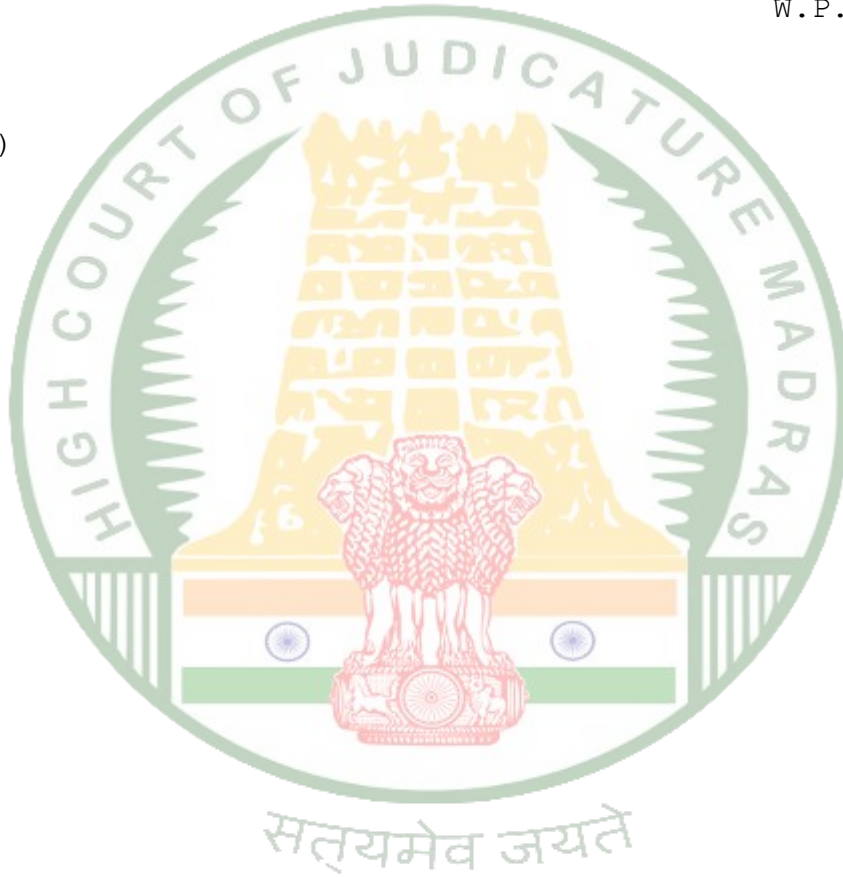
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1 cc to Mr.S. Mani, Advocate, Sr. 33490
1 cc to M/s. Government Advocate, sr. 33946

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