

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.17275 of 2010

M.P.No. 1 of 2010

Balakrishnan (Deceased)

B.Bhagya Lakshmi

(P2 substituted as LR in the place of deceased petitioner as per order

dated 07.02.2014 by TRJ in

M.P.1/12 in WP.No.17275/10.

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep. By its Chief Secretary,
Housing and Urban Development,
Fort St. George, Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Housing Board,
Nandhanam, Chennai - 600 035.

3. The Executive Engineer,
Tamil Nadu Housing Board,
Tatabad Housing Unit,
Tatabad, Coimbatore.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent herein to pass orders based on the recommendation made by the second respondent vide his letter dated 18.08.2009 for the age relaxation as required to provide petitioners pension and other benefits and also direct the second and third respondent to disburse the pension and other benefits within the time frame fixed by this Court on the basis of the petitioner's husband representation dated 10.05.2010.

For Petitioner : Mr.P.Nethaji
For Respondents : Mr.V. Jayaprakash Marayanan
Special Government Pleader for R1
Mr.R.V.Babu for R2 & R3

O R D E R

The prayer in this writ petition is for a writ of mandamus directing the the first respondent herein to pass orders based on the recommendation made by the second respondent vide his letter dated 18.08.2009 for the age relaxation as required to provide petitioner's husband's pension and other benefits and also direct the second and third respondent to disburse the pension and other benefits within the time frame fixed by this Court on the basis of the petitioner's husband representation dated 10.05.2010.

2. The case of the petitioner is that her husband was appointed at the third respondent's office as NMR on 19.06.1986 and he has completed his five years service on 25.01.1992. Thereafter, he was regularized by the second respondent Board as Watchman on 01.02.1992. Thereafter, he was promoted as Works clerk vide by order dated 31.07.2000 with the time scale of pay. On 31.05.2007, he was retired from service. Thereafter, he has given several representations to the respondents for granting his retirement and pensionary benefits. However, the same has not been considered.

3. The second respondent by a communication in letter No.PaThoNu5/42085/05, dated 18.08.2009 addressed to the first respondent has forwarded the recommendatory note to state that most of the temporary employees working in the Board have subsequently regularized. Some of them either continued in the service or retired from service and some of them died. Since age relaxation has not been given to some persons, they were not able to get the pensionary benefits, the second respondent has recommended to the first respondent to give age relaxation to persons either retired or died and were regularized, for getting pensionary benefits.

4. Pursuant to the said communication, the first respondent had sent a letter dated 03.04.2009, to the petitioner's husband stating that his request for getting retirement and pensionary benefits, has been sent for getting approval for age relaxation, for the grant of pensionary and retirement benefits, and once the Government clears the same, then the retirement benefits would be given to him.

5. The further communication of the Public Information

Officer of the Board, dated 08.01.2010 addressed to the petitioner, has stated that proceedings seeking for age relaxation was sent to the Government and the copy of the same has also been enclosed. He further stated that once the approval of the Government is obtained, the pensionary benefits would be granted to the petitioner's husband.

6. Thereafter the petitioner's husband had sent a representation on 10.05.2010. However, there was no correspondence between the respondents and the petitioner. But the fact remains that the proposal sent by the third respondent through their communication in letter No.PaThoNu5/42085/05, dated 18.08.2009 for age relaxation is still pending before the first respondent and no orders have been passed till date and the retirement and pensionary benefits has not so far been given.

7. Heard both sides.

8. It is not in dispute that the petitioner's husband along with the similarly placed persons though regularized by the second respondent board, either they had been retired from service or died, are not given the pensionary benefits for want of age relaxation. Considering this plight, the second respondent have also made a suitable recommendation to the Government through his communication dated 18.08.2009 addressed to the first respondent seeking age relaxation for those who employed, including the petitioner's husband. Thereafter a communication emanates from the second respondent's office addressed to the petitioner would disclose all the factors that the issue of age relaxation is still pending for consideration before the first respondent and once the orders are passed and approved the age relaxation consequently the pensionary benefits would be given to the petitioner.

8. In view of the said position, this Court is of the considered view that a direction can be issued to the first respondent to take up the matter, immediately and decide the same, considering the plight of the age old employees of the second respondent Board who have retired and some of them died, as to how their family would survive including the petitioner.

9. In the result the writ petition is ordered with the following directions :-

1. The first respondent is directed to take up the recommendation made by the second respondent by his proceedings in letter No. PaThoNu5/42085/05 dated 18.08.2009 and pass necessary orders, in accordance with law, for giving necessary age relaxation including the retirement age and pensionary benefits to the petitioner's husband who has died already.

2. And after passing such orders by the first

respondent, the second respondent shall calculate and disburse the retirement and pensionary benefits to the petitioner, within a period of three months from the date of the decision taken by the first respondent and communicated to the second respondent. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Chief Secretary,
State of Tamil Nadu
Housing and Urban Development,
Fort St. George, Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandhanam, Chennai - 600 035.
3. The Executive Engineer,
Tamil Nadu Housing Board,
Tatabad Housing Unit,
Tatabad, Coimbatore.

+1cc to Mr.P. Nethaji, Advocate, S.R.No.63367
+1cc to the Government Pleader, S.R.No.63310

ks (CO)
md(28/11/2016)

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