

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.29483 of 2016

G. Jones

Son of Late J.Gnanamuthu,
Retired Driver (on working arrangement as Office Assistant)
Estate Office No.9,
Kannagi Nagar,
Tamil Nadu Slum Clearance Board,
Chennai - 600 096 ... Petitioner

Versus

1.Tamil Nadu Slum Clearance Board
Represented by its Chairman
No.5, Kamarajar Salai
Chennai - 600 005.

2. The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai
Chennai - 600 005.

3.The Secretary,
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai,
Chennai - 600 005

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the orders in (1) Pro.No.8208/14/VI dated 18.09.2014 of the first respondent, to the limited extent of direction relating to recovery of alleged excess pay from 01.06.2002 to 31.05.2014 (2) Pro.Na.Ka.No.A6/6191/2014 dated 01.06.2015 of the third respondent (3) Pro.No.8208/14/VI dated 31.07.2015 of the second respondent (4) Na.Ka.No.A6/8031/2013 dated 11.09.2013 of the first respondent and (5) Na.Ka.No.A6/8031/2013 dated 07.05.2014, to quash the same and to issue consequential directions to the respondents (1) to refund the sum of Rs.84,191/- recovered from the DCRG, with interest

(2) to sanction special increment for completion of 30 years of service as Driver w.e.f 04.06.2012 (3) to restore Special Grade Scale of Pay from 04.06.2002 (4) to revise the pensionary benefits of the petitioner on that basis and (5) to disburse all consequential monetary benefits within a time frame with interest at 18% and to pass such further or other orders.

For Petitioner : Mr. M. Ravi
For Respondents : Mr. Kesavan

O R D E R

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. The petitioner has filed this writ petition by contending that the respondents are attempting to recover amount from his pension on the ground that excess amount was paid to him during the course of his employment. It is the further contention of the petitioner that the orders passed by the respondents for recovery of amount from his terminal benefits were passed without notice to him.

3. Heard the counsel for both sides and perused the materials placed on record. It is seen from the records that the first order challenged by the petitioner is an order dated 18.09.2014 passed by the first respondent. By this order, it was stated that gratuity cannot be paid to the petitioner as an objection was raised by the audit for having paid excess amount to him from 01.08.2002 to 31.05.2014 while conferring special grade to him. It is further stated that period during which the petitioner was employed as Office Assistant between 29.11.2001 and 31.05.2004 requires to be ratified by the appropriate authority. Only after rectifying the above defects, the petitioner was informed that he will be paid gratuity. However, by the said order dated 18.09.2014, the petitioner was ordered to be paid family pension.

4. In the second order dated 01.06.2015 of the third respondent, which is challenged in this writ petition, is a consequential order passed on the basis of the order dated 18.09.2014 of the first respondent reiterating that an audit objection was raised as to the fixation of pay to the petitioner while conferring special grade to him.

5. In the third order dated 31.07.2015 of the second respondent which is challenged in this writ petition, the second respondent sanctioned gratuity amount payable to the petitioner after deducting the amount which was paid to him in excess while

conferring selection grade to him for the period from 04.06.2002 to 31.05.2014.

6. The fourth order challenged in this writ petition is an order dated 11.09.2013 of the first respondent. By this order, the revised scale of pay payable to the petitioner was determined by giving a detailed calculation relating to the pay paid to the petitioner for the aforesaid periods.

7. The last order dated 07.05.2014, which is challenged in this writ petition, was passed by the first respondent. This order was passed by the first respondent in response to a representation dated 26.03.2014 of the petitioner seeking to confer him special pay for having completed 30 years of service. In this order, it is clearly stated that the petitioner was appointed as Driver in the Slum Clearance Board on 04.06.1982 and thereafter, on and from 22.11.2001, he was appointed as Office Assistant by transfer of service. It was not a promotion conferred on the petitioner. Therefore, it was clearly stated that the petitioner has not rendered continuous service of 30 years in one and the same cadre. Therefore, by this order dated 07.05.2014 of the first respondent, the representation submitted by the petitioner for re-fixation of his pay for having completed 30 years of service in one and the same cadre was rightly rejected.

8. Thus, it is seen from the prayers sought for by the petitioner that the orders, which are impugned in this writ petition, relate to recovery of amount from the petitioner and rejection order passed by the first respondent rejecting his claim for refixation of his pay for having completed 30 years of service as though he completed 30 years of service in one and the same cadre. It is needless to mention that the petitioner was allowed to retire from service on 31.05.2014. Even before his retirement, the order dated 11.09.2013 was passed by the first respondent revising the scale of pay payable to the petitioner by giving a detailed calculation relating to the pay paid to the petitioner for various period. Thus, this order dated 11.09.2013 was passed even before the retirement of the petitioner and it is challenged by the petitioner after his retirement along with the other orders which were passed after his retirement. Whereas, the petitioner has filed this writ petition as though recovery was sought to be made without notice to him, which is factually incorrect. As mentioned above, the order dated 11.09.2013 was passed by the first respondent before his retirement but he did not challenge it immediately. Subsequently in the other dated 07.05.2014, his claim for conferment of revision of pay as though he has put in 30 years of continued service in one and the same cadre was rejected by

the first respondent. This order dated 07.05.2014 was passed prior to the retirement of the petitioner. However, the petitioner has filed the present writ petition only in the year 2016. In any event, as rightly pointed out in the order dated 07.05.2014 of the first respondent, the petitioner has not put in continuous service in one and the same cadre. He was appointed as Driver on 04.06.1982 and subsequently on 22.11.2001, he was appointed as Office Assistant by transfer of service. In such circumstances, I do not find any reason to interfere with the orders impugned in these writ petitions. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

arr/rsh

To

1.Tamil Nadu Slum Clearance Board,
Represented by its Chairman,
No.5, Kamarajar Salai,
Chennai - 600 005.

2.The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai
Chennai - 600 005

3.The Secretary,
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai
Chennai - 600 005.

+1 CC to Mr. M. Ravi, Advocate Sr.No.48216

WP No. 29483 of 2016

SCD (CO)
MD : 21/10/2016