

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3504 of 2016

1. N.R.Gayathiri [Petitioner]

Vs.

1. The Commissioner of Social Welfare
SIDCO Electronics Complex. 2nd Floor
Thiru. Vi. Ka Industrial Estate,
Guindy, Chennai-32.
2. The Joint Director of School Welfare
SIDCO Electronics Complex, 2nd Floor
Thiru. Vi. Ka Industrial Estate,
Guindy, Chennai-32.
3. The Child Development Project Officer
NO.33, Poonjola Veedhi
Kumananchavadi,
Poonamallee, Chennai-56.
4. The District Project Officer
No.33, Veerannan Street
Srinivasa Mahal,
Theradi, Thiruvallore-602 001.
5. The District Social Welfare Officer,
Ground Floor, Collectorate Complex,
Perambalur-621 212.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to settle the terminal benefits with interest for the delay including pension to the petitioner pursuant to the acceptance of the petitioner's voluntary retirement dated on 30.5.2014 and the copy of the order served on the petitioner after the initiation of Contempt in NO.1241/2014 in W.P.No. 27384 of 2012 within a time frame.

For Petitioner : Mr.R.C.Manoharan

For Respondents : Mr.P.Chinna Durai, G.A

O R D E R

The petitioner N.R.Gayathri has come to this Court seeking a Writ of Mandamus directing the first respondent, viz., Commissioner of Social Welfare, SIDCO Electronics Complex, Guindy, Chennai-32 to settle the terminal benefits with interest for the delay including pension payable to her, pursuant to the acceptance of her voluntary retirement.

2. Heard the learned counsel for the petitioner and Mr.P.Chinna Durai, learned Government Advocate, who took notice for the respondents.

3. The learned counsel for the petitioner would submit that the petitioner, who served as Superintendent in Social Welfare Department, opted for voluntary retirement under the Voluntary Retirement Scheme. Therefore, she submitted an application on 2.4.2012 seeking voluntary retirement and again another representation on 6.8.2012. Finally, at the intervention of this Court in W.P.No.27384 of 2012 by order dated 9.1.2013, giving direction to consider her request for voluntary retirement, she was allowed to retire from service with effect from 9.11.2012. However, her grievance is that till date, the respondents have not come forward to settle the terminal benefits. The reason cited by the respondents for non-settling the terminal benefits is that the petitioner has not furnished all the service particulars, since the service Register and other documents were destroyed due to a fire accident occurred in the Department on 16.1.2012. However, it has been claimed by the learned counsel for the petitioner that all the service particulars were furnished to the respondents. Even on receipt of the service particulars, the respondents have not come forward to settle the terminal benefits.

4. The learned Government Advocate, in reply, would submit that if all the service particulars of the petitioner are furnished within a week's time, the respondents, on receipt of the same, would have considered the request of the petitioner for payment of terminal benefits and pass final orders, disbursing all the terminal benefits.

5. The learned counsel for the petitioner also brought to my notice the order passed by this Court in similar circumstances in W.P.No.27264 of 2015, dated, 1.9.2015, wherein this Court has held as follows:

"By consent, the writ petition itself is taken up for final disposal.

2.The petitioner while working as a Superintendent in the services of Social Welfare Department, opted for voluntary retirement in the year 2009 and she was permitted to do so with effect from 31.01.2009 afternoon under F.R. 56 (3) (a). The petitioner would state that after her retirement from service, pension proposals have been submitted to the first respondent on 04.05.2009. Since it was submitted as per the pre-revised scale of pay, the first respondent did not forward the pension proposal to the third respondent. Thereafter, the petitioner was asked to resubmit the pension proposal, after effecting the revised scale of pay, based on the recommendation made by the 6th pay commission and she has also done so. However, the third respondent did not accept the same, pointing out some errors in the fixation of pay and requested the second respondent to rectify it and it was also rectified and in spite of it, the first respondent did not forward the pension proposal to the third respondent. Some time thereafter, it was forwarded to the third respondent, who, by communication dated 02.02.2015, has returned the proposal to the first respondent on the following grounds:

"The reconstructed SR is incomplete as SR entries for the period from 1986 to 2002 is missing. The same may be incorporated in the reconstructed SR. Specific entries may be made for all the events like promotion, grade, LLP etc., from date of appointment to date of voluntary retirement and authenticated leave account in complete shape and pay details, especially the pay fixation done on 01.06.1988 and 01.01.1996 may be furnished duly attested.

Also, the reason for non-submission of pension proposed after the voluntary retirement date in 30.01.2009 till destruction of the SRs in 16.1.2012/9/2014 (date of forwarding) may be furn.
Endt.No.Pen 21/1/Rev/22111999/14-15/ADK."

3.The grievance expressed by the petitioner is that though she voluntarily retired from service as early as in the year 2009, she is yet to be conferred with pension and other benefits and therefore, came forward to file this writ petition.

4. Heard the submissions of the learned counsel appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2.

5. This Court, taking into consideration the above facts and circumstances., directs the first respondent to consider and clarify the queries/doubts raised by the third respondent in the communication dated 2.2.2015, within a period of six weeks from the date of receipt of a copy of this order and also mark a copy of the same to the petitioner. The third respondent, on receipt of the same, is directed to consider the clarification given by the first respondent, within a further period of four weeks thereafter and communicates the decision taken to the petitioner. The Writ Petition is disposed of accordingly. No costs."

6. A perusal of the order passed by this court in W.P.No.27264 of 2015 dated 1.9.2015 passed in K.Sarasu vs. the Commissioner of Social Welfare, SIDCO Electronics Complex, Guindy, Chennai and 2 others shows that the respondent on receipt of the afore mentioned documents, in similar circumstances, has considered disbursement of the terminal benefits.

7. Agreeing to the aforesaid suggestion made by the learned Government Advocate, the learned counsel for the petitioner would submit that the petitioner undertakes to furnish the following documents, within a week's time from the date of receipt of order copy:

1. Copy of promotion order from JA to Asst Proc.7553/A1-2/80 dt.30.4.80.
2. Regularisation in the post of Assistant Proc.90950/A.2/80 dt.9.10.80
3. Promotion to the post of Superintendent : Proc.108926/AG3/88 dt 4.12.89
4. Relieving Order from Asst.to Supdt: Proc.No.108926/AG3/88 dt.29.12.89
5. Pay drawn particulars of ICDS, Tirumayam 30.12.89 to 10.5.90
6. Service Regularisation from 11.5.1990 to 30.4.93 Orphanage, Kelleys

7. Service regularisation from 1.5.93 to 31.10.93
D.SW.O.Chennai
8. Pay drawn particulars from 1.11.93 to 11./94
9. GPF A/c slips from 3/94 to 2/96
10. GPF A/c slips from 3/95 to 2/96
11. Pay drawn particulars of DRD from 1/96 to 25/3/97
12. Service regularisation 26.3.97 to 23.6.98 ICDS
Sriperumbudur
13. Leave regularisation of DSWO Nagai 381/A1/2000
dt.8.5.01...
14. Pay drawn particulars at DSWO Nagai from
19.2.2000 to 17.9.2001
15. Regularisation certificate from 18.9.2001 to
31.1.2015 ICDS Sriperumbudur
16. Regularisation certificate from 1.2.2005 to
3.4.2012 ICDS Poonamallee
17. Increment Certificate of 201 raising pay from
18290+4800 to 18990+4800
18. Proceedings 106/-5 dt.20.1.09- Pay revision
19. Selection grade format 2
20. Selection grade proposals sent from ICDS
Poonamalle Roc.No.236/06
21. Proceedings No.13606/Ad5(3) 12 dated 29.6.12
22. Proceedings No.57409/A1-2/77 dated 4.8.77
appointment order enclosed with M.C
23. Proceedings No.57409/A1.2/77 dated 10.8.77 I.A
24. Copies of Degree Certificate.

8. On receipt of such representation, the first respondent is directed to consider the same on merits and settle the terminal benefits to the petitioner within a period of four weeks from the date of receipt of the aforesaid service particulars from the petitioner, as it was done in respect of similarly placed person mentioned in the earlier order.

The writ petition is disposed of with the above direction.
No costs.

ajr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Commissioner of Social Welfare
SIDCO Electronics Complex. 2nd Floor
Thiru. Vi. Ka Industrial Estate
Guindy, Chennai-32.
2. The Joint Director of School Welfare
SIDCO Electronics Complex, 2nd Floor
Thiru. Vi. Ka Industrial Estate
Guindy, Chennai-32.
3. The Child Development Project Officer
NO.33, Poonjola Veedhi
Kumananchavadi
Poonamallee, Chennai-56.
4. The District Project Officer
No.33, Veerannan Street
Srinivasa Mahal,
Theradi, Thiruvallore-602 001.
5. The District Social Welfare Officer
Ground Floor, Collectorate Complex
Perambalur-621 212.

+ 2 ccs to Mr.R.C.Manoharan, Advocate Sr 6203

KR/4/4/16

W.P.No.3504 of 2016