

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.36545 of 2016

and WMP.No.31443 of 2016

M.Nagalingam ... Petitioner
Vs.

1.State of Tamil Nadu, Rep. By
The Secretary to Government,
Education Department,
Secretariat, Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 006.

3.The District Educational Officer,
Sangagiri,
Salem District. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to treat the petitioner's service under the old pension scheme as he was appointed even before 01.04.2003, as per the decision of the Hon'ble Division Bench of this Court in Union of India Vs. K.Punniyakoti & Others reported in 2014(2) CTC 777 dated 19.3.2014 by counting half of his service from the date of initial appointment i.e., 15.09.1993 till the date of regularization i.e., 15.09.2003.

For Petitioner : Mr.R.Singaravelan, Sr. Counsel
for Ms.M.Srividhya

For Respondents : Mr.V.Anandhamoorthy
Additional Govt. Pleader (Education)

O R D E R

With the consent of both sides, the main writ petition is taken up for final disposal.

2. The writ petition is filed seeking Mandamus directing the respondents to treat the petitioner's service under the old pension scheme as he was appointed even before 01.04.2003, as per the decision of the Hon'ble Division Bench of this Court in Union of India Vs. K.Punniyakoti & Others reported in 2014(2) CTC 777 dated 19.3.2014 by counting half of his service from the date of initial appointment i.e., 15.09.1993 till the date of regularization i.e., 15.09.2003.

3. The petitioner was selected for appointment to the post of Part Time Sweeper, through Employment Exchange, in the office of the Assistant Educational Officer, Tharamangalam, Omalur Taluk, Salem District, by an order dated 13.09.1993. Thereafter, he was posted in the Government Higher Secondary School, Amarangudi as Night Watchman. The service of the petitioner was regularized by an order dated 15.06.2012 of the 3rd respondent and he was taken to the regular time scale of pay with effect from 15.09.2003 and the respondents have treated his service under the New Pension Scheme.

4. Though the service of the petitioner was regularised after 01.04.2003, he was given appointment through the employment exchange on merits as per the Special Rules for the Tamil Nadu Basic Service even in 1992-93 itself. With regard to count his 50% of past service and treat him under Old Pension Scheme, the petitioner made representation on 05.10.2016 to the first respondent, but, no action has been taken on the same. Hence, the petitioner has come forward with the present Writ Petition.

5. I have heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader (educational) who takes notice for the respondents.

6. Considering the submissions made on either side, this Court, without going into the merits of the claim of the petitioner, direct the petitioner to give a fresh representation, along with a copy of this Order, to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider said representation in the light of 2014(2) CTC 777 dated 19.3.2014 with regard to counting half of his service from the date of initial appointment and pass appropriate order on merits and in

accordance with law, within a period of twelve weeks thereafter.

7.With the above direction, the present writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.State of Tamil Nadu, Rep. By
The Secretary to Government,
Education Department,
Secretariat, Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 006.

3.The District Educational Officer,
Sangagiri,
Salem District.

+1cc to Mr.M. Srividya, Advocate, S.R.No.58996
+1cc to the Government Pleader, S.R.No.59635

vsn(CO)
md(24/11/2016)

सत्यमेव जयते

W.P.No.36545 of 2016

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