

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.36776 of 2016

S.Jeyabalan

.. Petitioner

Vs.

Tamil Nadu Water Supply and Drainage Board,
Represented by its Managing Director,
Chepauk,
Chennai-600 005.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent herein to consider various representations of the petitioner, including the one dated 15.09.2016.

For Petitioner : Mr.Kandhan Duraisami
For Respondent : Mr.Ganesh Babu

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondent herein to consider various representations of the petitioner, including the one dated 15.09.2016.

2. It is the case of the petitioner that he joined the services of the respondent-Board as Assistant on 06.08.1971, which was subsequently re-designated as Assistant Section Officer. He was promoted as Section Officer on 06.05.1974 and as Assistant Secretary on 20.05.1991. The post of Secretary of the respondent-Board fell vacant on 31.12.2002 AN. As the petitioner was the only Assistant Secretary available for promotion to the post of Secretary, he was ordered and posted to hold the full additional charge of the post of Assistant Secretary. Since the post of Secretary comes under the first level officer, prior approval of the Government is necessary for promotion to the post of Secretary, and hence, the proposal, along with the recommendations of the Board, was forwarded to the Government for approval, and the same was pending before the Government.

Since formal orders appointing the petitioner as Secretary was not issued, due to delay in obtaining clearance from the Government, the petitioner continued to function as Secretary from 31.12.2002 AN till his date of retirement on 31.05.2004 and also as Assistant Secretary. He was also not paid salary for the post of Secretary. Hence, seeking monetary benefits payable to the petitioner from 01.01.2003 to 31.05.2004 and re-fixation of pension in the higher post, the petitioner filed a Writ Petition before this Court in W.P.No.14815 of 2012, which was allowed on 29.08.2012, directing the first respondent therein to consider the representation of the petitioner, dated 26.12.2011 in the light of the judgment of this Court in the case of T.Thangaraj Vs. Secretary to Government, 2011 (7) MLJ 1280, and pass appropriate orders thereon, and in any event, final order was directed to be passed within six months from the date of receipt of a copy of the order. Pursuant to the said order of this Court, the Government of Tamil Nadu issued an order dated 01.07.2013, directing the respondent-Board to revise the petitioner's salary admissible to the promotion post of Secretary from the date of assumption of full additional charge as Secretary and to revise his pension accordingly.

3. It is further stated that as per the Government Letter, dated 01.07.2013, the petitioner's pay had to be fixed in the post of Secretary with effect from 01.01.2013 and his pension had to be re-fixed accordingly with effect from 01.06.2004 based on the revised pay attached to the post of Secretary. Since the petitioner carried out the work and responsibility of both the posts of Assistant Secretary and Secretary during the period from 01.01.2003 to 31.05.2004, he is entitled to the following benefits:-

- (a) Difference of pay and allowance for the period from 01.01.2003 to 31.05.2004 for the post of Secretary;
- (b) Encashment of EL/UEL (difference) as on the date of retirement, i.e. 31.05.2004 for the post of Secretary;
- (c) Additional Charge Allowance for holding the post of Assistant Secretary in addition to the Secretary post for the period from 01.01.2003 after adjusting Additional Charge Allowance already paid for holding the post of Secretary in addition to the post of Assistant Secretary;
- (d) Difference of commutation of pension amount for the post of Secretary;
- (e) Difference of DCRG amount for the post of Secretary and
- (f) Revised pension from 01.06.2004 onwards for the post of Secretary.

4. It is further stated by the petitioner that out of the above mentioned six claims, the respondent has so far sanctioned the claims only relating to the post-retirement period, i.e.

with regard to above claims in (d), (e) and (f) only. With regard to the omission of payments relating to pre-retirement period, i.e. with regard to above claims in (a), (b) and (c), the petitioner made several representations to the respondent on various dates, i.e. 10.03.2014, 07.04.2014, 08.07.2016 and several reminders. The petitioner has lastly made representation, dated 15.09.2016 to the respondent. Since the same is pending, the petitioner has filed this Writ Petition.

5. Heard both sides and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, this Court, without going into the merits of the case, directs the respondent to consider the said representation of the petitioner, dated 15.09.2016 and pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the respondent to decide the same at the time of disposing of the said representation.

7. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Copy to
Tamil Nadu Water Supply and Drainage Board,
Represented by its Managing Director,
Chepauk, Chennai-600 005.

+1cc to Mr.Muthumani Duraisami, Advocate, S.R.No.63582
+1cc to Mr.R. Ganesh Babu, Advocate, S.R.No.63437

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

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