

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.39725 of 2016

R.Kandasamy

... Petitioner

Vs.

- 1 The Principal Accountant General
(Accounts and Entitlements)
Tamil Nadu.
 - 2 The Commissioner of Reimbursement Accounts,
Chennai - 15.
 - 3 The Joint Director
O/o. Director of Census Operation
E Wing, III Floor, Rajaji Bhavan,
Besant Nagar, Chennai - 90.
 - 4 The Commissioner of Treasury and
Accounts Department,
II Floor, Panagal Building,
Saidapet, Chennai - 15.
 - 5 The Pay & Accounts Officer,
Pay & Accounts Office,
High Court, Chennai - 600 104.
- ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to count half of the service rendered by the petitioner as "Coder" in the office of the Director of Census Operation, Tamilnadu on consolidated pay from 22.09.1980 to 20.01.1984 and from 22.10.1990 to 28.02.1994 along with the regular service rendered by him as Junior Assistant (Security) from 26.03.1998 to till the date of his retirement namely 31.05.2013 as qualifying service, send the revised proposal to the 1st respondent to revise the petitioner pension to the petitioner with all consequential monetary benefits by considering his representation dated 23.04.2016.

For Petitioner : Mr.R.Thamaraiselvan
For Respondents : Mr.S.N.Parthasarathi for R1 to R4
Government Advocate

O R D E R

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

2.The present writ petition has been filed seeking a Mandamus directing the respondents to count half of the service rendered by the petitioner as "Coder" in the office of the Director of Census Operation, Tamilnadu on consolidated pay from 22.09.1980 to 20.01.1984 and from 22.10.1990 to 28.02.1994 along with the regular service rendered by him as Junior Assistant (Security) from 26.03.1998 to till the date of his retirement namely 31.05.2013 as qualifying service, send the revised proposal to the first respondent to revise the petitioner pension to the petitioner with all consequential monetary benefits by considering his representation dated 23.04.2016.

3.The petitioner would state that he retired from the office of the fourth respondent as Junior Assistant. Initially, the petitioner rendered the service of "Coder" in the office of the Directorate of Census Operation, Tamil Nadu on consolidated pay from 22.09.1980 to 20.01.1984 and from 22.10.1990 to 28.02.1994. Subsequently, he was absorbed in regular service under the Tamil Nadu Public Service Commission and he joined the Government service as Junior Assistant in the Office of Pay and Accounts Office (South), Nandanam, Chennai on 26.03.1998.

4.The petitioner would further state that as per G.O.Ms.No.408 Finance (Pension) Department dated 25.08.2009, he is entitled to get pension by taking into consideration the service rendered by him prior to joining the service for counting retirement benefits. As per G.O.No.41 Finance (Pension) Department dated 09.02.2010, amendment has been made to the Tamil Nadu Pension Rules, 1978 by adding Sub Rule 4 in Rule 11 explaining that half of the service rendered under the State Government in non-privatised service, consolidated pay, honorarium or daily wages on or after 01.01.1961 in respect of Government enquiry absorbed in regular service before 01.04.2003, shall be counted for retirement benefits along with regular service. The petitioner made representation to the respondents and the second respondent vide proceedings dated 09.05.2013 i.e., before his retirement, directed the fourth respondent to send the petitioner's pension proposal taking into

account his earlier service as "Coder". The third respondent vide proceedings dated 21.03.2014 passed an order taking into account the service rendered by the petitioner from 22.09.1980 to 20.01.1984 alone and took 50% of that service for calculating pensionary benefits. The said order is a defective order since the service rendered by the petitioner from 22.10.1990 to 28.02.1994 as "Coder" was not taken into account. Hence, the petitioner made representation dated 23.04.2016 to the respondents. But the same have not been considered so far. Hence, this petition.

5. Heard the submissions of the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4.

6. Considering the submissions made on either side and without going into the merits of the case, this Court direct the respondents to consider the representation of the petitioner dated 23.04.2016, on merits and in accordance with law and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Principal Accountant General
(Accounts and Entitlements)
Tamil Nadu.
- 2 The Commissioner of Reimbursement Accounts,
Chennai - 15.
- 3 The Joint Director
O/o. Director of Census Operation
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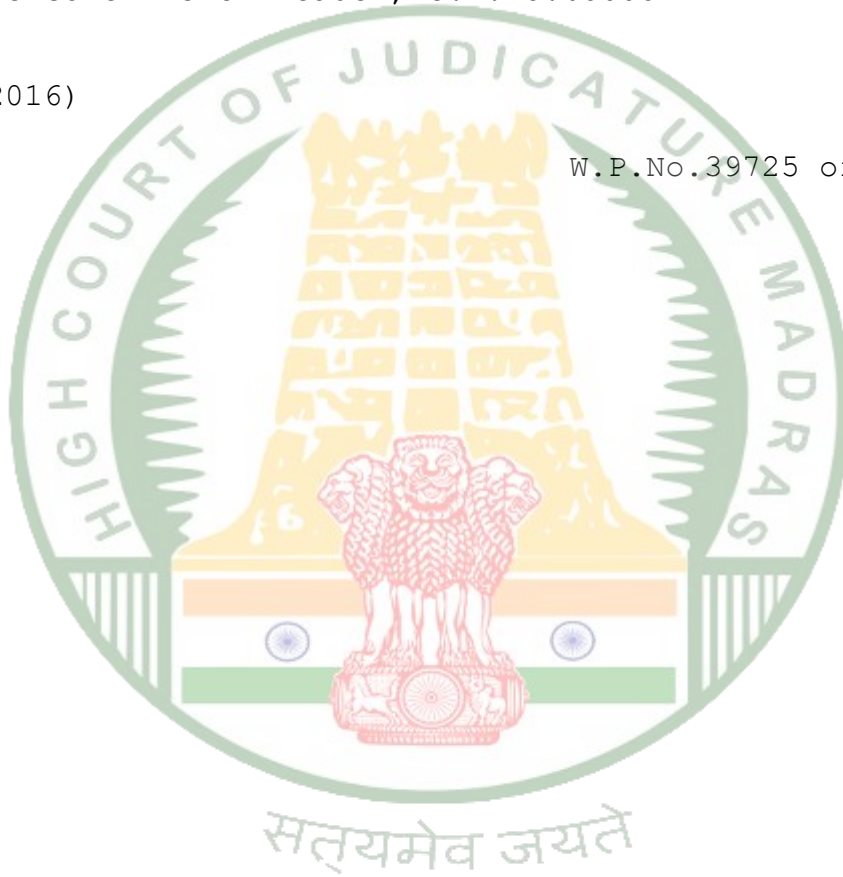
5 The Pay & Accounts Officer,
Pay & Accounts Office,
High Court, Chennai - 600 104.

+lcc to Mr.R. Thamarai Selvan, Advocate, S.R.No.15591

+lcc to the Government Pleader, S.R.No.65885

nr(CO)
md(23/11/2016)

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