

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.40583 of 2016

1.S.Rajamoni
2.J.Narasimhan
3.T.Selvanesan
4.V.Arumughasamy
5.M.Srinivas

... Petitioners

Vs.

1.The Government of Tamil Nadu,
rep. By its Principal Secretary,
Municipal Administration & Water Supply,
Secretariat, Fort. St. George,
Chennai 600 009.

2.The Managing Director,
Tamil Nadu Water Supply & Drainage Board,
No.31, Kamarajar Salai,
Chennai 600 005.

.... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the 2nd respondent to take into account half of the service rendered by the petitioners as volunteers under "Youth Service Corps" during the period 1972 to 1976 for pensionary benefits as per G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 in terms of the Regulation 58 of T.W.A.D. Board Service Regulations, 1972 made under T.W.A.D. Board Act, 1970 and include the same along with the service put in by the petitioners under the 2nd respondent and consequently direct the respondents to revise the pensionary benefits of the petitioners and to pay the same to the petitioners with 18% interest on the pensionary benefits with effect from the date of issuance of the said Government Order.

For Petitioners : Mr.V.S.Jagadeesan

For 1st Respondent : Mr.D.Suriya Narayanan,
Government Advocate

For 2nd Respondent : Mrs.S.Tamilarasi

O R D E R

Petitioners have come up with this Writ Petition seeking a direction to the 2nd respondent to take into account half of the service rendered by the them as volunteers under "Youth Service Corps" during the period 1972 to 1976 for pensionary benefits as per G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 in terms of the Regulation 58 of T.W.A.D. Board Service Regulations, 1972 made under T.W.A.D. Board Act, 1970 and include the same along with the service put in by them under the 2nd respondent and consequently direct the respondents to revise their pensionary benefits and to pay the same to them with 18% interest on the pensionary benefits with effect from the date of issuance of the said Government Order.

2. It is the case of the petitioners that they had initially been recruited as Volunteers under "Youth Service Corps" during the period from 1972 to 1976, on various dates. They were engaged on a monthly honararium of Rs.175/-. After holding the said position, the petitioners were appointed to the post of Junior Assistant in the 2nd respondent Board on various dates and retired from the service holding different posts at the time of retirement, as tabulated below:

S.No .	Name	Appointed to the post of Junior Assistant on	Post held at the time of retirement	Date of retirement
1	S.Rajamoni	25.02.1981	Selection Grade Assistant	30.04.2009
2	J.Narasimhan	25.08.1980	Selection Grade Assistant	31.05.2005
3	T.Selvanesan	04.08.1979	Junior Accounts Officer	30.11.2007
4	V.Arumugasamy	03.09.1977	Assistant Section Officer	15.04.2004 (Voluntary Retirement)
5	M.Srinivas	02.11.1977	Assistant Section Officer	30.06.2005

3. According to the petitioners, except the 4th petitioner Arumugasamy, other petitioners retired from service on attaining the age of superannuation on various dates. The said petitioner, V.Arumugasamy, who voluntarily retired from service on 15.04.2004, would have attained the age of superannuation on

30.07.2004, had he not gone on voluntary retirement. At the time of retirement, all the petitioners did not have the required qualifying service of thirty years, i.e. 60 half years, to be eligible for availing the benefit of full pension as required under Tamil Nadu Pension Rules, 1978.

4. The Government of Tamil Nadu in G.O.Ms.No.408 Finance (Pension) Department, dated 25.08.2009 issued orders for counting half of the period of service rendered by the employees of the State Government, under Non-Provincialised Service, service rendered on honorarium or daily wages basis, in respect of those employees who had been absorbed into Government service on regular basis prior to 01.04.2003 and in whose cases, the qualifying service falls short of the required one for availing full Pension, subject to the three conditions enumerated therein. Thereupon, the Government in Finance Department, in their Letter No.52717/Finance (Pension) Department/2009-1, dated 23.10.2009 clarified that any break in service could be condoned, without taking into account such period of break in service, while arriving at the qualifying service for pension.

5. The Tamil Nadu Water Supply & Drainage Board was formed based on the Tamil Nadu Water Supply & Drainage Board Act, 1970. Regulation No.58 of T.W.A.D. Board Service Regulations, 1972 made under the aforesaid Act provides for applicability of Tamil Nadu Pension Rules to its employees. The petitioners, at the time of their retirement, had qualifying service under the 2nd respondent in terms of number of half years, as against the required 60 half years for being eligible to get full pension. Because of the non-inclusion of the service rendered as Volunteers in Youth Service Corps, all the petitioners are getting lesser pension than the full pension.

6. In the light of the aforesaid Regulation 58 of T.W.A.D. Board Service Regulation, 1972, the provision ordered in G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 would very well apply to the employees of T.W.A.D. Board. Therefore, the 2nd respondent Board has no other option, but to implement the said Government Order in letter and spirit. Since the 2nd respondent Board has not acted upon the said Government Order, the petitioners preferred representations requesting the 2nd respondent herein to account for half of four years of their service as Volunteers under Youth Service Corps, i.e. two years (four half years) as extra qualifying service. In spite of repeated representations to the 2nd respondent Board, since no action is forthcoming to implement the said Government Order, the petitioners are before this Court.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. When the matter is taken up for consideration, learned counsel for the petitioners submitted that the grievance of the petitioners would be redressed if the respondents are directed to consider the petitioners' representations in terms of Regulation 58 of T.W.A.D. Board Service Regulations.

9. In view of the above, without going into the merits of the case, the petitioners are directed to give a fresh representation to the respondent Board along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider the representation of the petitioners on merits and in accordance with law and pass appropriate orders within a period of six weeks, thereafter.

This Writ Petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Principal Secretary,
Government of Tamil Nadu,
Municipal Administration & Water Supply,
Secretariat, Fort. St. George,
Chennai 600 009.
2. The Managing Director,
Tamil Nadu Water Supply & Drainage Board,
No.31, Kamarajar Salai,
Chennai 600 005.

+5cc's to Mr.V.S.Jagadeesan, Advocate, S.R.Nos.68392 & 68275
+1cc to Mrs.S.Tamilarasi, Advocate, S.R.No.68138
+1cc to the Government Pleader, S.R.No.68801

W.P.No.40583 of 2016

VGI(CO)
CA(29/12/2016)