

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.40995 of 2016

A.Ambika

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
rep. by Secretary to Government,
Backward Classes and Minorities Welfare Department,
Secretariat, Chennai-600 009.
 - 2.The Director of Backward Classes and Minorities Welfare,
Chennai.
 - 3.The District Backward Classes and
Minorities Welfare Officer,
Erode.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents to count half of the petitioner's service from 15.06.1992 to 17.02.2007 on consolidated monthly pay basis along with the regular service from 18.02.2007 till the date of the petitioner's retirement for reckoning the total qualifying service for the purpose of fixation of retirement and pensionary benefits and to grant all consequential monetary benefits to the petitioner.

For Petitioner : Mr.M.Ravi

For respondents : Mr.K.Dhananjayan, Spl GP

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the respondents to count half of the petitioner's service from 15.06.1992 to 17.02.2007 on consolidated monthly pay basis along with the regular service from 18.02.2007 till the date of the petitioner's retirement for reckoning the total qualifying service for the purpose of fixation of retirement and pensionary benefits and to grant all consequential monetary benefits to the petitioner.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The petitioner was appointed as Cook Assistant on 15.09.1992 in the Government Girls Hostel, Reddiyar, Erode District vide proceedings Na.Ka.No.3976/92/Ng2, dated 15.06.1992, issued by the District Backward Class Officer, Erode, having been sponsored by the District Employment Exchange, Erode. Subsequently, he was promoted as Cook. Initially, he was being paid consolidated pay of Rs.100/- pm, and it was revised periodically. The petitioner had been rendering service continuously from 15.06.1992, in various Government Hostels at Backward Class and Minorities Welfare Department in Erode District. The petitioner is entitled to have his service regularised and for regular time scale of pay and in this regard, he had been making representations to the respondents and only in the year 2008, his grievance was redressed partially. The District Backward Classes and Minorities Welfare Officer, Erode by his Proceedings Na.Ka.No.66144/2008/Na.2, dated 02.03.2009, passed orders regularizing the petitioner's service from 18.02.2007 and ignored his service from 15.06.1992 to 17.02.2007 (about 5 years), thereby depriving him of the benefits of service rendered during the said period. According to the petitioner, as per Rule 11(2) of the Tamil Nadu Pension Rules 1978, half of the service under contingent establishment shall be allowed to be counted towards qualified service for pension along with regular service. It is the specific case of the petitioner that he is entitled to have half of his services from 15.06.1992 to 17.02.2007 on consolidated net pay basis to be counted along with his regular service from 18.02.2007 till retirement for reckoning the total qualifying service for pecuniary benefits. Hence, the petitioner has submitted various representations to the respondents and lastly, he made representation on 16.05.2016 to the respondents seeking to count half of his service from 15.06.1992 to 17.02.2007 on consolidated monthly pay basis along with his regular service from 18.02.2007 to arrive at the total qualifying service for pecuniary benefits. Since the petitioner's representations were not considered by the respondents, the petitioner has come forward with the present writ petition.

3.Heard the learned counsel for the petitioner as well as the learned Spl Government Pleader appearing for the respondents and perused the materials available on record.

4.Considering the facts and circumstances of the case and the submissions made on either side, this Court directs the respondents to consider the representation dated 16.05.2016 given by the petitioner and to pass appropriate orders, on merits and in accordance with law, within a period of four 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 respondents to pass orders purely on merits and in accordance with law.

With the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary to Government,
Government of Tamil Nadu
Backward Classes and Minorities Welfare Department,
Secretariat, Chennai-600 009.
- 2.The Director of Backward Classes and Minorities Welfare,
Chennai.
- 3.The District Backward Classes and
Minorities Welfare Officer,
Erode.

+1 cc to Govt.Pleader,sr.68800

+1 cc to Mr.M.Ravi,advocate,sr.68590.

pa(co)
krd 9/1

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