

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41551 of 2016

P.Yellappan

.. Petitioner

Vs

- 1 The Secretary to Government
Municipal Administration and Water Supply
Department Chennai-9
 - 2 The Director of Town Panchayat
Chennai-108
 - 3 The Assistnat Director of
Town Panchayat Dharmapuri Region
Dharmapuri District
 - 4 The Executive Officer
Thenkanikottai Selection Grade Town
Panchayat Krishnagiri District
- ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the 1st Respondent to consider and pass appropriate orders on the representation dated 3.11.2016 regarding sanction regular pensionary benefits and other service benefits with all consequential arrears of pension to the petitioner within reasonable time and in the light of orders of this Honourable High Court in W.P. (MD) No.9408 of 2007 dated 19.12.2007.

For Petitioner : Mr.A.Baskaran

For Respondents : Mr.K.Dhananjanyan,
Spl. Govt. Pleader,
for R1 to R3
Ms.A.Srijayanthi,
for R4

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to consider and pass appropriate orders on his representation dated 3.11.2016 regarding sanction of regular pensionary benefits and other service benefits with all consequential arrears of pension within reasonable time and in the light of orders of this Court made in W.P. (MD) No.9408 of 2007 dated 19.12.2007.

3. It is the case of the petitioner that originally he was appointed as contingent Watchman on 21.9.1978 on daily wage basis at R.18/- per day. Subsequently, he was brought into regular time scale of pay from 1.10.1979 to 31.8.1991. As per the audit objection, he was reverted to daily wage employee and the salary was recovered, but on objection, it was repaid to him. As per various Government orders, the persons, those who have completed ten years of service, should be brought into regular time scale of pay. Since the petitioner has rendered 22 years 3 months and ten days of service in the contingent service, a proposal was sent to the Director of Town Panchayat, Chennai, by the Assistant Director of Town Panchayat, Dharmapuri vide letter dated 6.2.2001 to bring him into regular time scale of pay. However, the Assistant Director of Town Panchayat, vide letter dated 15.3.2004, sent additional particulars, wherein, he has stated that the petitioner under contingent service, is getting a sum of Rs.2,075/- per months and if his service is regularized, his pay should be fixed at Rs.4,500/- and hence, there will be an additional expenditure of Rs.1,715/-. Therefore, he recommended not to regularize the service of the petitioner retrospectively and requested to regularize his service prospectively from the date of Government Order. Thereafter, the Executive Officer, Thenkanikottai Town Panchayat regularized the service of the petitioner in the vacant post of Sanitary Worker in the scale of pay of Rs.4,800/- vide proceedings dated 16.12.2009. The petitioner attained the age of superannuation on 30.6.2015. Since his service was regularized only with effect from 16.12.2009, his pension proposal was not sent. As per the Government Orders, the service of the petitioner ought to have been regularized from 21.9.1988. In similar circumstances, the Madurai Bench of this Court by order dated 19.12.2007 made in W.P.(MD) No.9408 of 2007, held that the petitioners therein are entitled to get sanction of pension. Since the petitioner is also similarly placed, he has given a representation dated 3.11.2016 to the first respondent seeking sanction of pension. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner, learned Special Government Pleader, who has taken notice on behalf of the respondents 1 to 3 and the learned counsel, who has taken notice on behalf of the fourth respondent.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the first respondent to consider the representation of the petitioner dated 3.11.2016 seeking sanction of regular pensionary benefits and other service benefits with all consequential arrears of pension and pass appropriate orders, on merits and in accordance with law and also in the light of the decision of the Madurai Bench of this Court dated 19.12.2007 made in W.P.(MD) No.9408 of 2007 (Alagammal vs. State of Tamil Nadu and four others) within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sbi

To

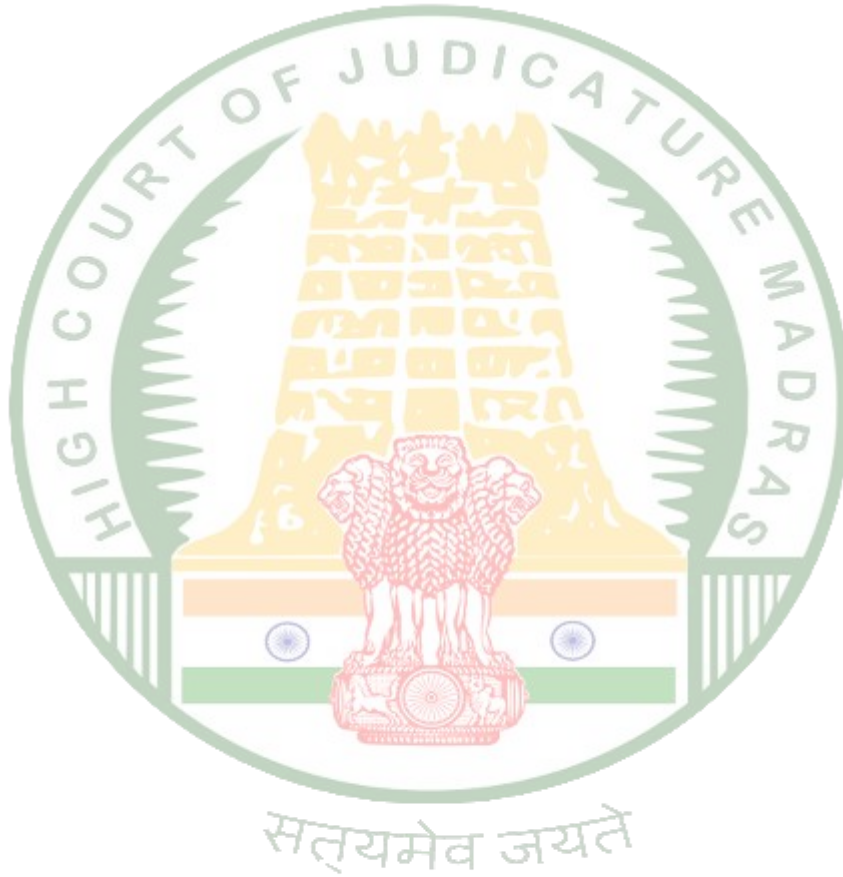
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1 cc to Government Pleader, Sr. 69647
1 cc to Mr.A. BAskaran, Advocate, Sr. 69475

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