

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.42310 of 2016

N.Raghavendran

.. Petitioner

Vs

- 1 Government of Tamil Nadu
Rep. by its Secretary to Government Housing
and Urban Development Department
Secretariat Chennai-600 009.
- 2 The Director of Town and
Country Planning No.307 Anna Salai
Chennai-600 002.
- 3 The Assistant Director of Town
and Country Planning Kurichi New Town
Development Authority Coimbatore-641 018.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent herein to consider the claim of the petitioner in the light of the order dated 27.9.2011 in W.P.No.13121 of 2011 passed by this Honourable Court and order dated 30.8.2010 made in W.P.(MD) No.7510 of 2010 in the case of similarly placed persons and to pass appropriate orders for grant of pensionary benefits to the petitioner by invoking Rule 82 of the Tamil Nadu Pension Rules to relax Rule 23 of the said Rules in favour or in the alternative to grant tow-thirds of pension and Gratuity (which would have been admissible to him if he had retired on medical certificate) as Compassionate Allowance to him by invoking Rule 40 of the Tamil Nadu Pension Rules.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.K.Dhananjayan,
Spl. Govt. Pleader

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 his claim in the light of the order of this Court dated 27.9.2011 made in W.P.No.13121 of 2011 and the order of the Madurai Bench of this Court dated 30.8.2010 made in W.P.(MD) No.7510 of 2010 in the case of similarly placed persons and to pass appropriate orders for grant of pensionary benefits to him by invoking Rule 82 of the Tamil Nadu Pension Rules to relax Rule 23 of the said Rules in favour or in the alternative to grant two-thirds of pension and Gratuity (which would have been admissible to him if he had retired on medical certificate) as Compassionate Allowance to him by invoking Rule 40 of the Tamil Nadu Pension Rules.

3. It is the case of the petitioner that he joined service as Tracer in the Town and Country Planning Department, on 29.1.1971 in the office of the Regional Deputy Director of Town and Country Planning, Salem-Cuddalore, Salem, having been selected through employment exchange. Thereafter, due to his family circumstances, he submitted his resignation on 31.8.1989, after rendering 18 years of service. Even though he had rendered 18 years and 8 months of service, he has been deprived of the retirement and pensionary benefits. Since there are precedents of sanction of pensionary benefits to those who resigned from service by relaxing relevant rule in their favour, the petitioner made several representations to the first respondent seeking those benefits. 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. Learned counsel appearing for the petitioner submitted that in identical situation, the Madurai Bench of this Court, in W.P.(MD) No.7510 of 2010, based on the decision of the Hon'ble Supreme Court in the case of **M/s.J.K.Cotton Spinning and Wearing Mills and others v. State of UP (AIR 1990 (SC) 1808)**, has given a direction to the respondents therein to pay pensionary benefits to the petitioners therein. Since the petitioner is also similarly placed, he is also entitled for the same relief.

5. Learned Special Government Pleader, who has taken notice on behalf of the respondents, submitted that if a fresh representation is given to the first respondent, the first respondent is prepared to consider the same on merits and in accordance with law and also in the light of the decision of this Court referred above.

6. In view of the said submission made by the learned counsel on either side, this Court directs the petitioner to send a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first

respondent is directed to consider the said representation seeking pensionary benefits by invoking Rule 82 of the Tamil Nadu Pension Rules to relax Rule 23 of the said Rules in favour or in the alternative to grant tow-thirds of pension and Gratuity (which would have been admissible to him if he had retired on medical certificate) as Compassionate Allowance to him by invoking Rule 40 of the Tamil Nadu Pension Rules and pass appropriate orders, on merits and in accordance with law and also in the light of the order of this Court dated 27.9.2011 made in W.P.No.13121 of 2011 (M.Gopalakrishnan v. The Agricultural Production Commissioner and Secretary to Government) and the order of the Madurai Bench of this Court dated 30.8.2010 made in W.P.(MD) No.7510 of 2010 (S.Sankaran vs The Accountant General), within a period of eight weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the first respondent to consider the claim of the petitioner purely on merits by considering the applicability of the said order. The writ petition is disposed of accordingly. No costs.

sbi

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

- 1 The Secretary to Government Housing and Urban Development Department Secretariat Chennai-600 009.
- 2 The Director of Town and Country Planning No.307 Anna Salai Chennai-600 002.
- 3 The Assistant Director of Town and Country Planning Kurichi New Town Development Authority Coimbatore-641 018.

+1 CC Mr.M.Ravi Advocate SR.No.7100

+1 CC Government Pleader SR.No.71282

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UG [CO]

MSI 20/01/2017