

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.42433 of 2016

S.Mariappan

... Petitioner

Vs

- 1 The Managing Director
Tamil Nadu Water Supply and Drainage Board
31 Kamarajar Salai Chepauk Chennai-600005
 - 2 The Joint Chief Engineer
(General) Tamil Nadu Water Supply and
Drainage Board Head Office 31 Kamarajar
Salai Chepauk Chennai-600005
 - 3 The Executive Engineer
TWAD Board R.W.S.Division
Virudhunagar
- ... Respondents.

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the first and second respondents to include the petitioner services rendered in the posts of Watchman and Office Assistant under TWAD Board Basic Service as per the TWAD Board Service Regulations, 1986 amended vide B.P.Ms.141 dated 4.3.1986 for the period from 23.11.1981 to 17.11.1987 and the Extra Ordinary Leave on Loss of Pay on Medical Grounds for the period from 5.12.1991 to 31.3.1992 (totally 3 months 28 days) as per the Tamil Nadu Pension Rules, 1978 for the Calculation of pension and other terminal benefits and to revise his pension and other terminal benefits duly permitting him to draw arrears of pension and all other terminal benefits statutorily accrued from 1.3.2016 onwards with interest at 12% per annum for the delayed payment within the time frame as may be fixed by this Court.

For Petitioner : Ms.Aruna Manivannan
for M/S Law Square

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 respondents 1 and 2 to include his services rendered in the posts of Watchman and Office Assistant under TWAD Board Basic Service as per the TWAD Board Service Regulations, 1986 amended vide B.P.Ms.141 dated 4.3.1986 for the period from 23.11.1981 to 17.11.1987 and the Extra Ordinary Leave on Loss of Pay on Medical Grounds for the period from 5.12.1991 to 31.3.1992 (totally 3 months 28 days) as per the Tamil Nadu Pension Rules, 1978 for the Calculation of pension and other terminal benefits and to revise his pension and other terminal benefits duly permitting him to draw arrears of pension and all other terminal benefits statutorily accrued from 1.3.2016 onwards with interest at 12% per annum for the delayed payment within the time frame fixed by this Court.

3. It is the case of the petitioner that initially he was appointed as Watchman in the respondent board vide proceedings dated 16.11.1981 and he joined duty on 23.11.1981. Subsequently, he was appointed as Office Assistant vide proceedings dated 6.11.1987 and he joined duty on 18.11.1987. After rendering more than 35 years of service, he was permitted to retire on 29.2.2016. While calculating pension, his legitimate service rendered between 23.11.1981 and 17.11.1987 was not taken into account. In this regard, he made several representations to the respondents. Since the same was not considered so far, left with no other alternative, the petitioner has come forward with the present petition for the relief set out earlier.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that the similarly placed persons like that of the petitioner approached this Court by filing writ petitions in W.P.Nos.10143 of 2008, 9714 of 2008, 38477 of 2005 and 2340 of 2011 and this Court, by orders dated 2.7.2008, 30.9.2008, 26.11.2009 and 26.11.2012 respectively, directed the first respondent to count the services rendered by them under Non Provincialised Work Charged Establishment for calculation of pension. Since the petitioner is also similarly placed, he is also entitled for the similar relief.

5. I have also heard the learned Special Government Pleader, who has taken notice on behalf of the respondents.

6. Though the petitioner has sought for a positive direction to direct the respondents 1 and 2 to include his

service rendered between 23.11.1981 and 17.11.1987 for calculation of pension, instead of giving such a positive direction, I am of the opinion, it would be appropriate to direct the respondents 1 and 2 to consider the claim of the petitioner in the light of the order of this Court dated 26.11.2012 made in W.P.No.2340 of 2011 (R.Shanmugam v. The Joint Chief Engineer).

7. Accordingly, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to send a fresh representation along with a copy of this order to the respondents 1 and 2 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 1 and 2 are directed to consider the said representation seeking to count the services rendered by him between 23.11.1981 and 17.11.1987 under Non Provincialised Work Charged Establishment for calculation of pension and pass appropriate orders, on merits and in accordance with law and also in the light of the order of this Court dated 26.11.2012 made in W.P.No.2340 of 2011 (R.Shanmugam v. The Joint Chief Engineer), within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

sbi

To

- 1 The Managing Director,
Tamil Nadu Water Supply and Drainage Board
31 Kamarajar Salai Chepauk Chennai-600005
- 2 The Joint Cheif Engineer
(General) Tamil Nadu Water Supply and
Drainage Board Head Office 31 Kamarajar
Salai Chepauk Chennai-600005
- 3 The Executive Engineer
TWAD Board R.W.S.Division Virudhunagar

+1cc to M/S Law Square, Advocate Sr.71353

+1cc to The Government Pleader Sr.71700

W.P.No.42433 of 2016

MP (CO)

RVR 10/01/2017