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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2016

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THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.19052 of 2016

Kasthuri

... Petitioner

-vs-

1.The Secretary to Government,
Micro, Small and Medium Enterprises Dept.,
Fort St.George,
Chennai - 600 009.

2.The Principal Accountant General,
O/o. Accountant General,
Tenampet,
Anna Salai, Chennai.

3.The Additional Principal Secretary,
Industries Commissioner and Director
of Industries and Commerce,
2nd and 3rd floor,
SIDCO Corporate Office Complex,
Guindy, Chennai - 32.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner's representation dated 09.09.2016 for counting the entire temporary services of the petitioner worked in the cadre of Field Surveyor cum Draftman and Section Writer in the Department of Survey and Land Record for pension purpose and accordingly revise the petitioners pension and pensionary benefits and to pay the consequential arrears in the light of Judgment rendered in Ganapathy Vs. State of Tamil Nadu rep.by its Principal Secretary to Government, Revenue Department, Chennai reported in (2013) 2 MLJ 399.

For Petitioner : Mr.V.P.Rajan

For RR - 1 & 3 : Mr.S.Kumar
Additional Government Pleader

**ORDER**

This Writ Petition has been filed seeking a direction to the respondents 1 and 2 to consider the petitioner's representation dated 09.09.2016 to count the entire temporary services rendered by the petitioner in various cadres for pension purpose and accordingly revise her pension and pensionary benefits and to pay the consequential arrears.

2. Heard the learned counsel appearing for the petitioner; the learned Additional Government Pleader, who takes notice for the respondents 1 & 3 and the learned counsel for the second respondent. By consent the writ petition itself is taken up for final disposal at the admission stage.

3. The petitioner was appointed as a Section Writer in the department of Survey and Land Records on temporary basis in the year 1984. After 12 years, she was absorbed in the first respondent department and appointed as Junior Assistant and her services were regularised with effect from 1996. At the time of her retirement, 50% of the temporary service rendered in Survey and Land Record was calculated for fixing the pension.

4. The case of the petitioner is that the entire temporary service ought to have been taken into account in fixing the pensionary benefits in the light of the decision reported in **(2013) 2 MLJ 399 [V. Ganapathy vs. State of Tamil Nadu rep. by its Principal Secretary to Government, Revenue Department, Chennai and others]**. Seeking benefit on par with the similarly placed persons, the petitioner has preferred a representation to the respondents for calculating the entire temporary services for fixing pensionary benefits. As no order was passed, the petitioner was constrained to file this Writ petition.

5. The representation dated 09.09.2016, a derived instrument supported from the above said decision of this Court reported in **(2013) 2 MLJ 399**, wherein it has been held that consideration of only 50% of service for the pensionary benefits, is against the Article 14 of the Constitution of India and therefore, the entire service period should be taken into account for the purpose of calculating pension. The learned counsel has also relied upon the order passed by this Court in WP(MD)Nos.1091 to 1097 of 2016, wherein, the decision reported in **(2013) 2 MLJ 399** is relied upon.

6. The learned counsel for the respondents would submit the the representation of the petitioner dated 09.09.2016 will be considered by the respondents.

7. Under such circumstances, the petitioner is directed to resubmit the representation dated 09.09.2016 along with a copy of the order passed in WP(MD)Nos.1091 to 1097 of 2016 for the purpose of facilitation. After receiving such representation, the first



respondent is directed to consider the representation of the petitioner, in the light of the orders passed in WP(MD)Nos.1091 to 1097 of 2016 and also in the light of the decision reported in **(2013) 2 MLJ 399** and to pass orders within a period of eight weeks from the date of receipt of a copy of this order.

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8.The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Micro, Small and Medium Enterprises Dept.,
Fort St.George,
Chennai - 600 009.

2.The Additional Principal Secretary,
Industries Commissioner and Director
of Industries and Commerce,
2nd and 3rd floor,
SIDCO Corporate Office Complex,
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Industries Commissioner and Director
of Industries and Commerce,
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Guindy, Chennai - 32.

+1 cc to M/s.P.Gunasekaran, Advocate in SR.No.59007

+1 cc to M/s.V.P.Rajan, Advocate in SR.No.59321

mj

CSL/EM-MPA/21.10.2016: 3P/6C

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