



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2016

CORAM :

THE HON'BLE DR. JUSTICE S.VIMALA

Writ Petition (MD) No.22252 of 2016

S.Yesudas

... Petitioner

Vs.

1. The Secretary,
Tamil Nadu Construction Workers Welfare Board,
No.8 Valluvar Kottam High Road,
Nungambakkam, Chennai 600 034

2. The Assistant Commissioner of Labour,
Social Security Scheme,
Nagerkoil (Additional charge),
Kanyakumari District

3. The Labour Officer,
Social Security Scheme,
Nagerkoil, Kanyakumari District

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari-fied Mandamus to call for the records of the second respondent's Order No.1418, dated .06.2011, quash the same and consequently, to direct the third respondent to sanction pension under the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994, to the petitioner, with effect from 08.04.2010, based on the recommendation of the first respondent in Letter No.A/4762/2014, dated 19.03.2014.

For Petitioner : Mr. A.Haja Mohideen
For Respondents : Mr. V.R.Shanmuganathan, Spl.G.P.,

O R D E R

Heard Mr. A.Haja Mohideen, learned counsel for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader, who accepts notice on behalf of the respondents. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal at the admission stage itself.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The brief facts, which are necessary for the disposal of

the above writ petition, are as follows:-

The petitioner is a manual worker, involved in the construction works from the tender age. The Government, in order to uplift the status of the manual workers, especially in the construction field, passed a benevolent scheme, by name, the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994, (hereinafter will be referred to as "the scheme") and under the scheme, the petitioner can register his name in order to get the benefits.

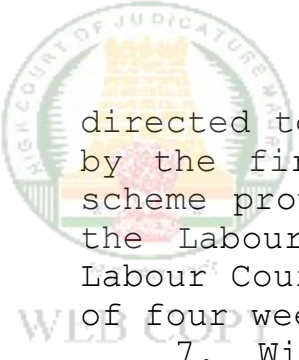
2.1. Clause 13 of the scheme enables the petitioner to receive monthly pension, when he reaches the age of 60 years. Under clause 6 of the scheme, every registration should be renewed, after the expiry of every two years, by the manual workers. If the renewal is not done by the manual workers, it is the duty of the Labour Officer (Social Security Scheme), to send a notice to the defaulting manual worker and thereafter, the registration is likely to be cancelled. Till the cancellation, the status of the manual worker continues. The grace period for renewal is six months.

3. The petitioner has registered his name on 25.09.1997 and the renewal continued till 25.09.2005. The petitioner is entitled to receive pension, when he reaches the age of 60 years. Claiming the said benefits, the petitioner has made a representation on 27.07.2010. Later on, the impugned order came to be passed, by rejecting the request of the petitioner on the ground that the petitioner did not continue the registration for a period of five years.

4. The learned counsel for the petitioner would point out that the registration of the petitioner with the scheme cannot be said to have been cancelled, because neither notice nor an opportunity of personal hearing was provided by the Labour Officer; notice has to be sent by the Labour Officer, bringing it to the notice of the petitioner that his registration is likely to be cancelled, if it is not renewed; had that step been taken, it would have enabled the petitioner to continue the registration; unless it is shown that such a step is taken by the Labour Officer, the contention of the respondent that the registration remains cancelled cannot be accepted and in the light of this contention, the respondents should have considered the benefits available under the scheme, in which the petitioner has registered his name.

5. Fortunately, for the petitioner, a recommendation, dated 19.03.2014, has been given by the first respondent to pass orders, in terms of the Scheme and Rules framed therefor. The third respondent is expected to take action based on the recommendation given by the first respondent. As no further action has been taken by the third respondent on the recommendations, this writ petition has been filed by the petitioner.

6. In view of the above position, the third respondent is



directed to take further action, based on the recommendations made by the first respondent, in the light of the provisions of the scheme providing for renewal of registration at the initiative of the Labour Officer, and the non-compliance of the same by the Labour Court. The said exercise must be completed within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

srk

To

1. The Secretary, Tamil Nadu Construction Workers Welfare Board,
No.8 Valluvar Kottam High Road,
Nungambakkam, Chennai 600 034
2. The Assistant Commissioner of Labour,
Social Security Scheme,
Nagerkoil (Additional charge),
Kanyakumari District
3. The Labour Officer, Social Security Scheme,
Nagerkoil, Kanyakumari District

+1cc to Spl.Government Pleader Sr.No. 71113

+1cc to Mr.A.HAJA MOHIDEEN, Advocate Sr.No. 70822

JAM/08.02.17/CM-MSA/3P-6C

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