



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Cont.P.(MD).No.82 of 2016

in

W.P.(MD).No.7197 of 2008

R.Soundararajan

... Petitioner/Petitioner

Vs.

- 1.N.S.Palaniappan, I.A.S,
The Secretary, Public Works Department
Fort St. George, Chennai-9.
 - 2.S.Thirumaran, B.E
The Engineer in Chief,
Water Resources Organization
Public Works Department, Chepauk, Chennai-5.
 - 3.P.L.Valliappan, B.E
The Chief Engineer,
Water Resources Organization
Public Works Department
Madurai Region, Madurai-2.
 - 4.U.Chidambaram, B.E
The Executive Engineer,
Water Resources Organization
Public Works Department
Gundar Basin Circle, Tallakulam,
Madurai-2.
- ... Contemnors/Respondents

Prayer:-Contempt Petition filed under Section 11 of the Contempt of Courts Act to punish the contemnors for willfully and deliberately disobeying the order of this Honourable Court in WP.(MD).No.7197/2008 dated 27.01.2011.

Prayer in WP(MD)No.7197/2008:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the 1st respondent to regularize the services of the petitioner in the post of Work Inspector Grade II with effect from 01/01/1985 and consequently direct the respondents to sanction all the attendant and monetary benefits thereof.

For Petitioner :Mr.R.Soundararajan (Party-in Person)

For Respondents :Mr.J.Gunaseelan Muthiah

Government Advocate

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

O R D E R

The Petitioner (party-in-person) is present today before this Court. However, there is representation on the side of the respondents through the Learned Government Advocate.



2. Earlier, this Court, on 27.01.2011 in W.P.(MD).No.7197 of 2008, filed by the petitioner against the State of Tamil Nadu, represented by the Secretary, Public Works Department, Chennai-9 and three others at paragraph No.12 had observed the following:

'As far as the present writ petition is concerned, with the similarly placed persons like that of the petitioner namely K.Raja, S.Solai, M.Karuppiahm M.Subramanian and others and also one V.Narayana who have been given the relaxation in respect of relevant rule for appointment of Work Inspector Grade-II, as per G.O.Ms.No.286, Public Works Department, dated 05.10.2005, the petitioner's service is directed to be regularized in the post of Work Inspector Grade-II with effect from 01.01.1985 and he is entitled to get all the attendant and monetary benefits as per Rules and this exercise shall be done by the authorities concerned within a period of eight weeks from the date of receipt of a copy of this order otherwise, the ingredients of Article 14 of the Constitution of India, will be a glaring spectator for injustice being meted out, in the considered opinion of this Court.'

and allowed the writ petition.

3. At this stage, the Learned Additional Government Pleader appearing for the respondent Nos.1 to 4 brings it to the notice of this Court that in the counter filed by the fourth respondent (to the contempt petition), at paragraph Nos.11 and 12, it is mentioned as under:

"11. I humbly submit that it would be pertinent to mention here that there is no direction from this Hon'ble Court to pay monetary benefits from the date of his regularization this Hon'ble Court has directed only to regularize the petitioner in the post of Work Inspector Grade-II with effect from 01.01.1985 and further directed to pay all the attendant and monetary benefits as per Rules. Further, the monetary benefits cannot be given to the petitioner from the date of his regularization for the reason that he was not entitled to be appointed in the said post at the relevant point of time as he was not having requisite qualification. The relaxation for qualification for the petitioner has been granted only by virtue of G.O.(Ms).No.243, Public Works Department, dated 11.12.15 and hence the arrears of salary as claimed by the petitioner cannot be paid to him from the date of his regularization. While in the case of the similarly placed persons the relaxation for qualification has been granted earlier and



before retirement in some cases. Hence, the petitioner and other similarly placed persons will not be on the same footing. Hence, it would be clear a person can be appointed in post only when have the qualification nor gets relaxation for the same and as such the petitioner has only got relaxation only on 11.12.15 and as such he cannot be paid any arrears of pay unless this Hon'ble Court directs the authorities to pay the same. As such, the orders of this Hon'ble Court have been given to effect and complied.

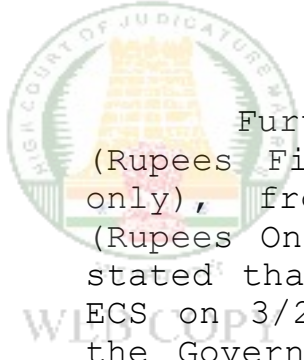
12. I humbly submit that the Government Orders and Rules mentioned supra clearly against the petitioner's prayer to pay the monetary benefit with effect from the date of regularization (I.e 01.01.1985), as such it is against law and against existing rules in force as his service has been regularized in the post of Work Inspector in relaxation of rules."

4. The Learned Government Advocate for the respondent Nos.1 to 4 submits that the Government Orders and Rules are clearly against the petitioner's prayer to pay the monetary benefits with effect from the date of regularization i.e 01.01.1985. As such, the same is against Law and against the existing Rules in force, as his service was regularized in the post of Work Inspector in relaxation of rules.

5. It is also brought to the notice of this Court that as against the order of this Court passed in W.P.(MD).No.7197 of 2008, dated 27.01.2011, the respondents preferred W.A.(MD).SR.46534 of 2014 and the same was dismissed by this Court on 24.04.2015.

6. On behalf of the 4th respondent, a Calculation Memo is filed before this Court, in which, it is mentioned that the petitioner who worked within the region, having control, attained superannuation on 29.02.2012 afternoon and orders were issued appointing him as Tamil Nadu Subordinate Service Work Inspector Grade II from 01.01.1985 in the time scale of pay 610-20-730-955-301075 and in pursuance of the same, salary increments and other revised salary were regularised and necessary orders were passed and in view of the same, the petitioner is eligible for the following benefits:

1. Gratuity: Rs.92,400/- (21.03.2016) credited into his account by ECS
2. Earned Leave Salary for 240 days :Rs.58,048/- (List prepared and submitted to the Subordinate Treasure Office.
3. Unearned Casual Leave on private affairs Leave salary for 90 days Rs.21,768/-.



Further, pending revised commutation amount Rs.58,523/- (Rupees Fifty Eight Thousand and Five Hundred and Twenty Three only), from 3/2012 to 2/2016 is approximately Rs.1,61,000/- (Rupees One Lakh Sixty One Thousand Only) Thiru.R.Soundarajan has stated that the same has been credited into his bank account by ECS on 3/2016. Further, from 3/2016 onwards in accordance with the Government Pension Rules, an additional amount of Rs.3,833/- will be given to him till his life time.

7. In view of the Calculation Memo filed on behalf of the Contemnor/4th Respondent and also taking note of the averments made at paragraph No.11 of the counter affidavit filed by the 4th Respondent/Contemnor to the present contempt petition, this Court for the present closes the contempt petition, granting liberty to the petitioner to work out his remedy before the competent forum in the manner known to Law and in accordance with Law, if he so desires/advised.

8. Before parting with the case, it is brought to the notice of this Court that although on behalf of the 4th respondent/contemnor in the calculation memo, it was mentioned that unearned Casual Leave on private affairs for 90 days for Rs.21,768/- will be despatched on the petitioner's submission of income tax report, the said amount of Rs.21,768/- (Rupees Twenty One Thousand Seven Hundred Sixty Eight) was paid to the petitioner in March 2016 and the same is recorded.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1.N.S.Palaniappan, I.A.S, The Secretary,
Public Works Department, Fort St. George, Chennai-9.

2.S.Thirumaran, B.E. The Engineer in Chief,
Water Resources Organization Public Works Department
Chepauk, Chennai-5.

3.P.L.Valliappan, B.E, The Chief Engineer,
Water Resources Organization
Public Works Department, Madurai Region, Madurai-2.

4.U.Chidambaram, B.E, The Executive Engineer,
Water Resources Organization
Public Works Department Gundar Basin Circle, Tallakulam,
Madurai-2.

+One cc to Mr.V.Thirumal, Advocate, SR.No.35904

+One cc to The Special Government Pleader, SR.No.36355

vs

<https://hcservices.courts.gov.in/19/7/2016>

Cont.P.(MD).No.82 of 2016

in
W.P.(MD).No.7197 of 2008
12.07.2016