

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31539 of 2012

R.Haridoss

..Petitioner

vs

1.The Government of Tamil Nadu,
Rep.by its Secretary to Government,
Animal Husbandry, Dairying and Fisheries Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner for Milk Production and
Dairy Development,
Madhavaram Milk Colony,
Chennai - 600 051.

3.The Accountant General (A & E)
Chennai -600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to grant minimum pension to the petitioner by treating his period of regular service in the Dairy Development Department from 27.04.1971 to 31.01.1981(9 years 9 months and 3 days) together with service rendered in contingency establishment from 30.12.1970 to 26.04.1971 along with arrears and interest on delayed payment of pension and all other consequential benefits.

For Petitioner : Mr.K.S.Viswanathan
For Respondents : Mr.L.P.Shanmugasundaram
SGP(Cooperatives) for R1 & R2
M/s.J.Sri vidya for R3

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to grant minimum pension to the petitioner by treating his period of regular service in the Dairy Development Department from 27.04.1971 to 31.01.1981(9

years, 9 months and 3 days) together with service rendered in contingency establishment from 30.12.1970 to 26.04.1971 along with arrears and interest on delayed payment of pension.

2.The learned counsel for the petitioner made a submission that the writ petitioner is retired as Spl.Grade Chargeman from the Tamil Nadu Cooperative Milk Producers' Federation(TCMPF). He was initially appointed as Mazdoor on contingency service in the Dairy Development Department on 30.12.1970 and worked as such till 26.04.1971. The services of the petitioner was regularized in the post of Compressor Man with effect from 27.04.1971 in the said department. Thereafter, the petitioner was deputed to work on Foreign Services terms and conditions with the Tamil Nadu Dairy Development Corporation. Subsequently, he continued on deputation even after the constitution of Tamil Nadu Cooperative Milk Producers' Federation.

3.The learned counsel for the writ petitioner states that the writ petitioner has served as Junior Mazdoor from 30.12.1970 to 26.04.1971(118 days). In this regard, the claim of the petitioner is that half of the services on contingency employment to be reckoned for pension as per Rule 11 of the Tamil Nadu Pension Rules. Further, the petitioner continued as Compressor Man from 27.04.1971 to 31.01.1981(9 years, 9 months 3 days). However, the respondents have erroneously calculated the qualifying services and the right of pension has been denied to the writ petitioner. This Court has earlier considered the same issue in the case of S.Renukarani Vs. The Government of Tamil Nadu rep. By its Secretary, Transport(RW1) Department in W.P.Nos.8702 to 8707 of 2016 dated 11.09.2017 and the relevant paragraph 3 is extracted hereunder:

"3.However, the learned counsel for the writ petitioners submitted that the Government issued G.O.Ms.No.24, Finance(Pension) Department dated 13.01.1986, in respect of calculating the length of qualifying service for the purpose of pension benefits. Following the aforesaid Government Order, the Tamil Nadu Pension Rules, 1978 was amended. The amended Rule 43(3) of the Tamil Nadu Pension Rules, reads as follows:

"43(3) In calculating the length of qualifying service, fraction of a year equal to [three months] and above shall be treated as completed one half year and reckoned as qualifying service".

4.It is made clear that the writ petitioner has completed 9 years, 9 months and 3 days. Thus, the writ petitioner is eligible for continuing the period of calculating the services as one full year and accordingly, it has to be construed as if the petitioner had completed 10 years service for the purpose of

grant of pension under the Tamil Nadu Pension Rules 1978. In view of this matter, the writ petitioner is entitled for pension as applicable under the Tamil Nadu Pension Rules and the respondents are directed to grant pension to the petitioner by treating the period of qualifying services as 10 years under the provisions of the Tamil Nadu Pension Rules as stated supra and accordingly, calculate the pensionary benefits and disburse the same with arrears as applicable as per rules within a period of twelve weeks from the date of receipt of a copy of this order.

5. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. Secretary to Government,
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 2. The Commissioner for Milk Production and
Dairy Development,
Madhavaram Milk Colony,
Chennai - 600 051.
 3. The Accountant General (A & E)
Chennai - 600 018.
- +1 CC to Mr. K. S. Viswanathan, Advocate sr 82528.
+1 CC to M/s. J. Sri vidya, Advocate sr 82615.
+1 CC to Govt. Pleader sr 82461.

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SP(08/12/2017)