BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2017**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.81 of 2015
and
M.P(MD) No.1 of 2015
against
W.P.(MD)No.11910 of 2011

1. The Principal Commissioner and Commissioner of Commercial Taxes, Chepauk, Chennai-5.

2. The Deputy Commissioner of Commercial Taxes, Palayamkottai, Tirunelveli District.

3. The Commercial Tax Officer, Sankaran Koil, Tirunelveli District. ..Appellants/Respondents

Vs.

Maria Benadict ..Respondent/Petitioner

PRAYER: Writ Appeal is filed under clause 15 of Letter Patent , against the order passed by this Court, dated 26.02.2014 in W.P.(MD)No.11910 of 2011.
Prayer in WP(MD). 11910/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioner in the cadre of Office Assistant from the date of his initial appointment (i.e., 15.03.1980) with all consequential benefits both monetary and service including the pensionary benefits to him from the date of retirement taking into account of his entire period of service with the respondents.

For Appellants : Mr.R.Karthikeyan
Additional Government Pleader

For Respondent : Mr.V.Kannan

JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This Writ Appeal is directed against the order dated 26.02.2014 made in W.P.(MD)No.11910 of 2011 filed by the respondent herein.

2.The respondent herein was working as Casual Labour on daily wages in the office of the Deputy Commercial Tax Officer, Sankarankovil from 15.06.1980. He sought regularization of service as "Office Assistant". He also moved the Tamil Nadu Administration Tribunal by filing O.A.No.3423 of 2001 and the same was transferred to the High Court and renumbered as W.P.(MD)No.246 of 2007. The writ petitioner was engaged continuously to work as daily wages level. A number of employees, who are similarly placed persons, were regularised by G.O.(2D)No.165 Commercial Taxes and Registration (A1) Department dated 11.11.2008. The writ petitioner's name is mentioned at serial No.28. The writ petitioner also reached the age of superannuation and retired on 31.03.2010. Since the writ petitioner's service was regularized as "Office Assistant" with effect from 27.11.2008, the writ petitioner was not given any pensionary benefits. Therefore, he filed W.P(MD)No.11910 of 2011 for computing the length of service right from his date of initial appointment. The learned Single Judge directed the appellants herein to extend the pensionary benefits from the date of writ petitioner's superannuation, taking into account the 50% of the entire service of the writ petitioner from 15.06.1980. Against that order, the present writ appeal has been filed. It is not in dispute that the writ petitioner was appointed as "Casual Labour" on daily wages, as early as on 09.06.1980. The person who put in thirty years of service that too on full time basis, cannot be denied pensionary benefits, although the learned single Judge directed the respondents taking into account only 50% of the service from his date of initial appointment to date of retirement.

3.It is also seen that similarly placed persons were regularised as early as 1992. The learned single Judge has passed an equitable order only for pensionary benefits. Therefore, we do not find any reason to interfere with the order passed by the learned single Judge.

4.Hence, this Writ Appeal is dismissed. No Costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Commissioner and
   Commissioner of Commercial Taxes,
   Chepauk, Chennai-5.

2. The Deputy Commissioner of
   Commercial Taxes, Palayamkottai,
   Tirunelveli District.

3. The Commercial Tax Officer,
   Sankaran Koil,
   Tirunelveli District.

+ 1 cc TO Mr.V.Kannan , Advocate in SR No. 70710
+1cc to The Special Government Pleader in SR.No.71317

psd
AE/MR KKR/SAR4/16.11.2017/3P/6C

W.A.(MD)No.81 of 2015
and
M.P(MD) No.1 of 2015
against
W.P.(MD)No.11910 of 2011
04.08.2017