

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.09.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.31231 of 2017

M.Kannan

... Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Information and Public Relations,
Fort St. George,
Chennai - 600 009.
 2. The Director,
Department of Information and Tourism (Admin II),
Fort. St. George,
Chennai - 600 009.
 3. Pay and Accounts Officer,
Office of the Principal Accountant General (A&E)
362, Anna Salai,
Chennai 600 018.
 4. MGR Government Film and Television Institute,
Rep. By its Principal,
CIT Campus, Taramani,
Chennai - 600 113
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, to direct the respondents to consider my service from the date of joining service with the 4th respondent institute viz., 01.08.1972 to reckon calculation of pension and disburse rightful pension due to me for the period commencing from 01.08.1972 to 11.08.1986 without causing any further delay.

For Petitioner : Mr.Vijayaragavan

For Respondent : Mrs. Thanga Vadhana Balakrishnan
Additional Government Pleader
for R1 and R2

O R D E R

The case of the petitioner is that he was appointed as a Daily wage labourer in the Institute of the 4th respondent on 01.08.1972 on a daily wage of Rs.6 as revealed from the

Typed set of papers at page No.1 vide office order No.1475/C/72 dated 01.09.1972 and continued as such till 1986. During 1986, he was appointed as Helper on adhoc basis on 11.06.1986 forenoon and thereafter his service as a helper was regularized vide G.O.4D No.16 of Tamil Nadu Information and Tourism (AD II) Department dated 13.08.1993 relaxing the Pension rules with regard to age, qualification and etc since he was continuously working there pursuant to letter of the Principal /the 4th respondent as revealed from the typed set of documents. However, when he attained the age of superannuation as per the service records he was superannuated from service on 31.07.2006. Thereafter his pension papers were submitted and his pension was fixed by the 3rd respondent pursuant to the communication of the 4th respondent taking into consideration of his period of service as a helper from the year 1986. However, the grievance of the petitioner is his earlier 50% period of service, as per Rule 11(4) of the Tamil Nadu Pension Rules (hereinafter referred to as the Pension Rules) should have been taken into consideration towards the fixation of pension. The petitioner as such made a representation to the respondents to fix his pension counting 50% of his service rendered as a Casual Labour till the date of regularization as a helper for pension.

3. In view of the provisions contained in the pension rules such grievance of the petitioner having not been addressed to, he had come to this Court dates back in the year 2006 by filing a writ petition vide WP No.3384 of 2006 which was disposed of on 04.09.2006, with an order to the concerned respondents therein to consider the representation of the petitioner within a period of six months. Thereafter the petitioners are though approached the authority i.e more particularly the 4th respondent to extend him the benefit of 50% of the service as a Daily wage worker till the date of his regularization for counting towards pension but the same is being not extended on the ground that no record is available indicating the continuance of the petitioner as a Daily Wage Worker. However, the petitioner in the meanwhile has obtained information under the Right to Information Act indicating that he was working as a Daily wage worker prior to his regularization and as such, in all fairness of the thing he should have been extended the benefit thereof towards pension in terms of 11(4) of the Tamil Nadu Pension Rules. Hence, he has filed this writ petition seeking the aforesaid direction to the respondent to calculate 50% of his service as Daily wage worker till the date of his regularization and fixation of his pension accordingly.

4. As it appears in this case, the 3rd and 4th respondent inspite of notice, have made no appearance. The 1st & 2nd respondents have not filed reply affidavit and no relief is also sought for against them. The grievance of the petitioner is year old one and relates to non calculation of his pension though he retired in the year 2006, considering

the 50% of his service rendered in terms as Daily wage worker in terms of the Pension Rules. Hence, this Court decides to dispose of this writ petition, in the absence of 3rd and 4th respondents.

5. The learned counsel appearing for the petitioner submits that since the petitioner is entitled to 50% of the service of him rendered as a Daily wage worker in view of the Rule 11(4) of the Pension Rules, the said benefit could not have been denied to him on the ground that no record is available particularly, when the petitioner has furnished the records obtained through RTI Act. Hence, he submits this Court looking into the aforesaid facts direct the 4th respondent to take all effective steps for re fixation of his pension accordingly, by submitting necessary proposal to the 3rd respondent.

6. The learned counsel appearing for the 1st and 2nd respondents submit that they have nothing to say in this matter as the relief sought for is against the 3rd and 4th respondent.

7. The grievance of the petitioner is a year old one inasmuch as, he retired in the year 2006. However, soon after his retirement his grievance in this regard, having not been addressed to, he had come to this Court earlier vide WP No.3364 of 2006 wherein the order as stated earlier has been passed. In spite of the same, the grievance of the petitioner has not been addressed to assigning the reasons that no documents are available. However, the petitioner has now produced the documents indicating the fact that he was continuously in the service of the 3rd respondent as daily wage worker from the year 1972 as revealed from the typed set of paper page No.1 till he was appointed as a Helper on adhoc basis on 11.06.1986. Such appointment of the petitioner as appears from G.O.4D No.16 of Tamil Nadu Information and Tourism (AD) II Department dated 13.08.1993 was regularized. The same therefore indicates that the petitioner was in the employment of the 4th respondent since the year 1972. In view of the same, the rejection of the prayer of the petitioner that no documents is available indicating the fact that since when he was working as a Daily wage worker, the benefit of the Pension Rules could not be extended to him appears to be without any substance. Therefore this Court is of the view that the writ petitioner is entitled to the relief sought for. However, while holding so it cannot be lost sight that this Court has also not heard the 4th respondent on such information produced by the petitioner. In such premises, this Court is of the view that if a direction is given to the 4th respondent to verify the papers submitted by the petitioner obtained under the RTI Act and if it is found that such documents have been provided to him under the RTI Act by the appropriate authority, placing reliance on the same to take necessary

steps with regard to re-fixation of the pension extending the benefit of the Pension Rules in this regard.

8. Therefore, this Court dispose of this writ petition with a direction to the 4th respondent to reconsider the case of the petitioner for re-fixation of his pension extending him the benefit of the Pension Rules taking note of the papers supplied by him which is stated to have been obtained under the RTI Act indicating that he was on the service of the 4th respondent as Daily wage worker continuously till the date of his regularization and pass necessary orders on the same within a period of three months from the date of receipt of copy of this order . Needless to say that, this order however should not be construed as certification of genuineness of the documents stated to have been obtained by the petitioner under the RTI Act, inasmuch as this Court had not heard the 4th respondent on the same, therefore, the 4th respondent is at liberty to verify the genuineness of such information but within the stipulated date and if it is found that the documents are genuine, act on the same as extending the benefits of the pension Rules by submitting necessary proposal to the 3rd respondent for re-fixation of the pension of the petitioner. The petitioner is directed to submit all the documents along with the copy of this order to the 4th respondent, enclosing the documents which he stated to have been obtained under the RTI Act in support of this case.

9. With the aforesaid order, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Department of Information and Public Relations,
Fort St. George,
Chennai - 600 009.
2. The Director,
Department of Information and Tourism (Admin II),
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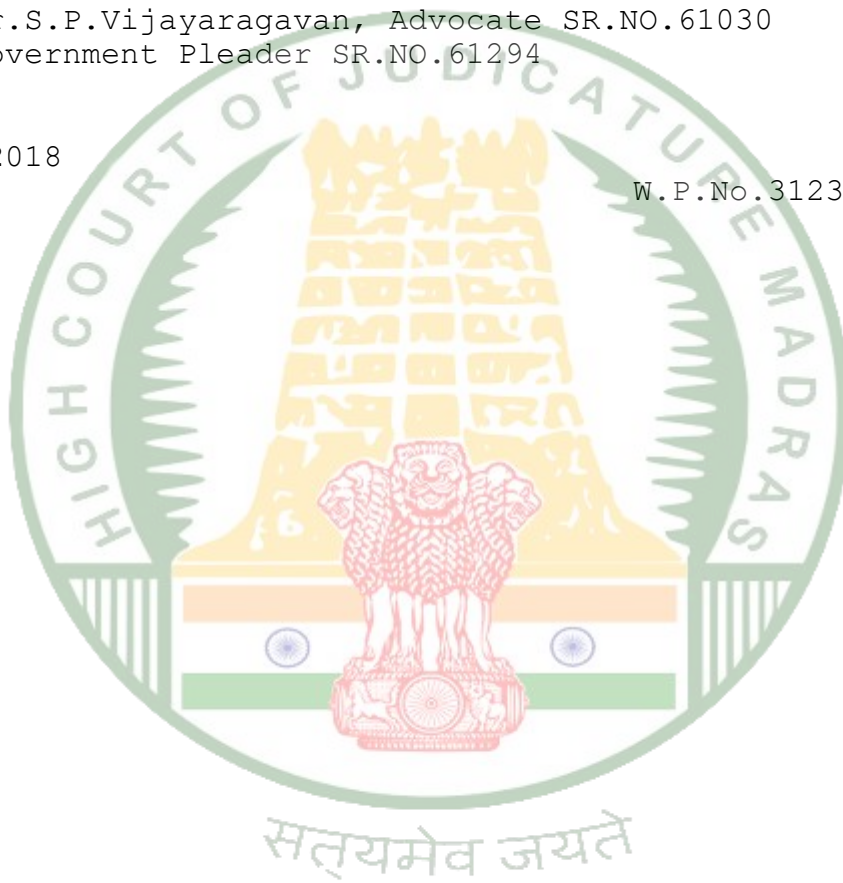
4. The Principal,
MGR Government Film and Television Institute,
CIT Campus, Taramani,
Chennai - 600 113

+2cc to Mr.S.P.Vijayaragavan, Advocate SR.NO.61030

+1cc to Government Pleader SR.NO.61294

NM(CO)
sm:26.10.2018

W.P.No.31231 of 2017



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