

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated :29.08.2018

Coram
The Hon'ble Mr.Justice Satrughana Pujahari

Writ Petition No.22195 of 2018

M. Dhandayuthapani

...Petitioner

Vs.

1. The State of Tamil Nadu
rep. by Secretary, Public Works Department,
Fort St. George, Chennai - 600 009.
 2. The Chief Engineer (General) and
Engineer in Chief, Chennai Division,
Chepauk, Chennai - 600 005.
 3. The Assistant Executive Engineer,
W.R.O. Public Works Department,
River Conservancy Sub-Division,
Trichy - 20.
 4. The Principal Accountant General,
O/o. The Accountant General (A & E)
No.361, Anna Salai, Chennai - 600 018.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondents to consider the claim of the petitioner for grant of pension and pensionary benefits as per revised Pension Rules, by taking into account 50% of the casual labourer service rendered between 02.05.1986 and 01.07.1996 (5 years) and the entire service rendered after being brought into regular establishment till the date of his superannuation i.e., on 31.05.2018 (22 years) in all making it as 27 years of qualifying service for the purpose of arriving at pension and notional fixation of pay retrospectively with effect from the date of completion of 10 years of services as NMRs and other pensionary benefits to the petitioner forthwith and as directed by this Court in W.P.Nos.433 and 4041 of 2012 dated 07.08.2012.

For Petitioner	:	Mr.L. Chandrakumar
For Respondents 1 to 3	:	Mr.S.Suresh Kumar
		Government Advocate

O R D E R

Heard, Mr.L. Chandrakumar, the learned counsel appearing for the petitioner and Mr.S.Suresh Kumar, the learned Government Advocate, who accepts notice on behalf of the respondents 1 to 3. Since the Writ Petition is taken up for disposal at the stage of admission and considering the nature of relief to be granted herein, notice to the fourth respondent is dispensed with.

2. The grievance of the petitioner in this Writ Petition is that, he was appointed as Mazdoor-I in the respondent, Public Work Department on 02.05.1986, but his service was regularized only on 01.07.1996 after rendering service for 10 years, and thereafter, he was superannuated on 31.05.2018. However, while calculating his pension, 50% of his service before regularization has not been taken into consideration in spite of the fact that Rule 11 of the Tamil Nadu Pension Rules amended was so. Therefore, the petitioner has come to this Court seeking a direction to the respondents to calculate 50% of his service before regularization, which he had rendered in the capacity of Mazdoor-I employee towards calculation of pension.

3. The learned counsel appearing for the petitioner, during course of hearing on admission submits that the case of the petitioner is squarely covered by a decision of this Court rendered in the case of V.Devaki and another Vs. The State of Tamil Nadu rep. by its Principal Secretary, PWD, Chennai and others in W.P.Nos.433 and 4041 of 2012 dated 07.08.2012, and as such, a direction may be issued to the respondents to consider the case of the petitioner for regularization of pension taking note of the law laid down in the aforesaid decision.

4. The learned Government Advocate appearing for the respondents 1 to 3, however, submits that the case of the petitioner shall be examined within the time to be fixed by this Court for extention of pensionary benefits, and if it is found that the case of the petitioner is covered by the aforesaid decision, and the aforesaid decision has reached its finality, such benefit shall be extended to the petitioner.

5. Regard being had to the aforesaid facts and submissions made, without going into the merit of the contention raised by the learned counsel appearing for the petitioner that the petitioner's case is squarely covered by the aforesaid decision, it is directed that the petitioner shall make a representation ventilating his grievance for revision of pension to the appropriate respondent within a period of two weeks from the date of receipt of a copy of this order, and on receipt of such representation, the respondent concerned shall also consider the same and pass necessary orders within a period of four weeks

thereof taking note of the decision rendered by this Court in the aforesaid case (i.e. W.P.Nos.433 and 4041 of 2012 dated 07.08.2012) if the same has got application to the facts and situation of the petitioner's case. However, it is made clear that this Court has expressed no merits on the merit of such representation to be filed by the petitioner, in any particular manner. It is further made clear that this order should not be treated as mandate of this Court that the case of the petitioner is covered by the aforesaid decision.

6. With the aforesaid order, this Writ Petition stands disposed of. No costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu
Public Works Department,
Fort St. George, Chennai - 600 009.
2. The Chief Engineer (General) and
Engineer in Chief, Chennai Division,
Chepauk, Chennai - 600 005.
3. The Assistant Executive Engineer,
W.R.O. Public Works Department,
River Conservancy Sub-Division,
Trichy - 20.
4. The Principal Accountant General,
O/o. The Accountant General (A & E)
No.361, Anna Salai, Chennai - 600 018.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.59467

+1cc to the Government Pleader, S.R.No.59790.

Writ Petition No.22195 of 2018

rrs 27/09/2018.