

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4250 of 2015

K.Janamejeyan

.. Petitioner

Versus

1.Employees Provident Fund Organisation,
Represented by the Regional Provident Fund
Commissioner,
Tamil Nadu and Pondicherry,
Royapettah High Road,
Chennai-600 014.

2.Assistant Provident Fund Commissioner (Pension),
Sub-Regional Office,
Sree Complex, 'D' Block,
No.18, Madurai Road,
Trichirapalli - 620 008. .. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay correct pension amount to the petitioner under Employees' Pension Scheme, 1995 on par with Thiru Seetharaman from the date the petitioner became eligible for monthly pension with all arrears and future pension.

For Petitioner : Mr.K.M.Ramesh

For Respondents : Ms.V.J.Latha

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O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to pay correct pension amount to the petitioner under Employees' Pension Scheme, 1995 on par with one Thiru Seetharaman from the date the petitioner became eligible for monthly pension with all arrears and future pension.

2. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the petitioner joined the Tamil Nadu Minerals Limited (TAMIN) as unskilled worker on 1.4.1982 in Kunnam Black Granite Quarry. Thereafter, he was promoted as semiskilled and skilled and finally as super-skilled workman. The writ petitioner was allowed to retire from service on 18.8.2009, on attaining the age of superannuation. The writ petitioner joined the services of TAMIN Provident Fund Contributions and Pension Contributions were deducted from his salary and remitted to the EPF Organisation. The writ petitioner was enrolled under Employees' Pension Scheme on 16.11.1995. On retirement, he submitted Form 10-D for sanction of pension under EPS 1995. The second respondent by order dated 16.8.2010, sanctioned the monthly pension to the writ petitioner a sum of Rs.1,475/- with effect from 19.8.2009 and also ordered payment of arrears of pension at Rs.18,290/- in pension payment order dated 16.8.2010.

3. The writ petitioner found that his colleague, who worked along with him, one Thiru.Seetharaman was getting higher pension of Rs.1,568/-, though he joined the service only on 1.4.1984. Thus, he submitted an application for revision of his pension. However, the respondents have not considered his case on the ground that the writ petitioner has served about 13 years 9 months and 3 days. Thus, the said period of service was reckoned. For the purpose of calculating pension, the qualifying service of 13 years alone was taken. Contrarily, the learned counsel for the writ petitioner states that the writ petitioner had already served 13 years 9 months and 3 days and the pension to be reckoned by calculating the qualifying service as 14 years.

4. Thus, under EPS Scheme, the difference of six months in a year can be rounded off and the whole year can be taken into account for the purpose of calculating the qualifying service. This being the conditions stipulated in the Scheme, the writ petitioner is eligible to avail the benefit of qualifying service of 14 years and not 13 years. If 14 years are calculated, then the writ petitioner will be getting more amount of pension and the arrears of consequential pension.

5. The learned counsel, appearing on behalf of the respondents, opposed the said contention of the learned counsel for the writ petitioner, by stating that since the writ petitioner has not completed 14 years of service, 13 years of service only be taken into account for the purpose of calculation of pension. Thus, there is no infirmity in respect of grant of pension to the writ petitioner.

6. This Court is of an opinion that when the Scheme itself provides rounding off the six months difference to one year, the contention raised on behalf of the respondent, cannot be accepted and the writ petitioner had admittedly served 13 years, 9 months and 3 days and therefore, the writ petitioner is eligible to get pension by calculating the qualifying service as 14 years. Thus, the respondents are liable to enhance the pension by taking into account the qualifying service of the writ petitioner as 14 years and ultimately, pay the arrears of pension.

7. In this view of the matter, the respondents are directed to take into account the qualifying service of the writ petitioner as 14 years and accordingly revise the pension and consequential pensionary benefits and pay the arrears of pension, future pension and other consequential benefits, within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-
Deputy Registrar

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Sub Assistant Registrar

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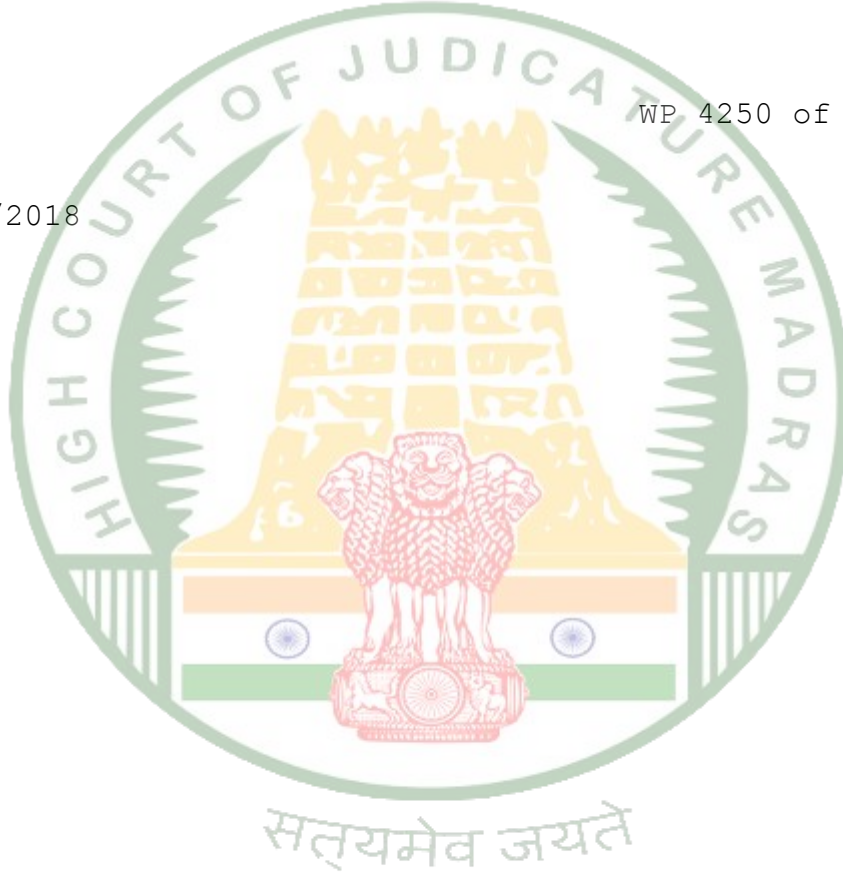
- 1.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
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Royapettah High Road,
Chennai-600 014.

2.Assistant Provident Fund Commissioner (Pension),
Sub-Regional Office,
Sree Complex, 'D' Block,
No.18, Madurai Road,
Trichirapalli - 620 008.

+lcc to Mr.K.M.Ramesh, Advocate Sr.52507
+lcc to M/S.V.J.Latha, Advocate Sr.52238

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srg 11/08/2018



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