

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

WA.Nos.1157 to 1163/2016 & CMP.Nos.14916 to 14921/2016

R.Ramajalam .. Appellant in
WA.No.1157/2016/Petitioner in W.P. 15546/2016

Samuvel @ Vedhamuthu .. Appellant in
WA.No.1158/2016/Petitioner in W.P. 15547/2016

K.Mydeen Khan .. Appellant in
WA.No.1159/2016/Petitioner in W.P. 15548/2016

G.Lakshmanan .. Appellant in
WA.No.1160/2016/Petitioner in W.P. 15549/2016

A.Jeyaraj .. Appellant in
WA.No.1161/2016/Petitioner in W.P. 15550/2016

V.John .. Appellant in
WA.No.1162/2016/Petitioner in W.P. 15551/2016

C.Muthusamy .. Appellant in
WA.No.1163/2016/Petitioner in W.P. 15552/2016

vs.

1. The Secretary to Government
State of Tamil Nadu, Revenue Department,
Fort St George, Chennai 600 009.
2. The Commissioner of Revenue Administration
Chepauk, Chennai. .. Respondents in
all Writ Appeals

Prayer : Appeals filed under Clause 15 of the Letters Patent Act
against the order passed by the learned Single Judge in

WP.Nos.15546, 15547, 15548, 15549, 15550, 15551 & 15552/2016 dated 27.04.2016.

W.P. 15546 to 15552/2016(in all W.Ps)

Petition under Article 226 of the constitution of India praying for the issue of a Writ of Mandamus directing the Respondents to consider and pass appropriate orders sanctioning of full pension taking into account of the services rendered during the period 20.04.1966 to 31.05.1955, 1986 to 31.05.1995, 16.02.1966 to 31.05.1995, 1986 to 31.05.1995, 1961 to 31.05.1995, 26.03.1968 to 31.05.1995, 13.01.1963 to 31.05.1995 respectively, (i.e) the period of the part time services rendered by the Petitioners applying the ration of the directions issued by the Hon'ble Court in W.P(MD) 1716 of 2005 dated 24.08.2007 within a time fixed by this Hon'ble Court.

For Appellants in
all Writ Appeals ... Mr.S.Sathia Chandran

For Respondents in
all Writ Appeals ... Mrs.Srijayanthi, Spl.GP

COMMON JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The writ petitions filed by the appellants for issuance of a writ of mandamus, directing the respondents to sanction them full pension, taking into account, their earlier part-time service, was dismissed by the learned Single Judge on the ground of delay and laches. Feeling aggrieved, the unsuccessful writ petitioners are before this Court.

2 We have heard the learned counsel for the appellants and the learned Special Government Pleader on behalf of the respondents.

3 The writ petitions filed by the appellants to count their part time service for the purpose of pension, was rejected by the learned Single Judge only on the ground of delay and laches. The question as to whether the claim for pension is a continuing right, was considered by a Division Bench of this Court in an unreported judgment dated 17.01.2006 [Chairman, Railway Board Vs. P.Chandrasekaran]. The Division Bench was pleased to observe that right to receive pension is a continuing right.

4 Since the right to receive pension is a continuing right of the employee, there is no question of invoking the principle of delay and laches. In fact, under similar circumstances, this Court has entertained writ petitions and

directed the Government to consider the matter on merits. [Judgment dated 12.02.2014 in WP.No.3781/2014- M.GURULAKSHMANAN Vs. THE STATE OF TAMIL NADU REP.BY ITS SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, CHENNAI-9 AND ANOTHER].

5 Learned Single Judge dismissed the writ petitions only on the ground of delay and laches and since the right to receive pension is admittedly a continuing right, we set aside the order passed by the learned Single Judge.

6 We direct the respondents to consider the claim of the appellants for counting their part time service on merits and as per law. It is open to the appellants to produce materials before the Government to substantiate their contentions.

7 Such exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

8 The appellants are directed to forward a copy of the representation along with a copy of this Judgment, so as to enable the 1st respondent to decide the matter as expeditiously as possible.

9 The Intra-Court appeals are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

AP

To

1.The Secretary to Government
State of Tamil Nadu, Revenue Department,
Fort St George, Chennai 600 009.

2.The Commissioner of Revenue Administration
Chepauk, Chennai.

+1 CC to Mr.S. Sathia Chandran, Advocate sr 5975.

+1 cC to Govt. Pleader, sr 6234

WA.Nos.1157 to 1163/2016

LRS (CO)

SP(13/02/2018)