

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.A.No.1520 of 2016
and C.M.P.No.18815 of 2016

Labour Officer (Social Security Scheme),
Tamil Nadu Constructions Workers Welfare Board,
Trichy Road, Ramanadhapuram,
Coimbatore - 45. Appellant

Vs.

- 1.Tamil Nadu AITUC Kattida Thozhilalar Sangam
rep by its General Secretary,
Regn. No.2373, MDS Kovai Mavatta Kuzhu,
20, Dhandapani Street, Pappanaickenpalayam,
Kovai - 641 037.
- 2.Tamil Nadu Construction Workers Welfare Board,
rep by its Secretary,
No.8, Vallurvarkottam High Road,
Nungambakkam, Chennai - 34. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 17.02.2016 made in W.P.No.4322 of 2015.petition filed under Article 220 of the constitution of India praying a Writ of Declaration Declaring the action of the 2nd respondent in granting pension to the members of the petitioner union whose names are given in the Annexure to this Affidavit from August 2013/ October instead of from the date of their attaining years of age as illegal arbitrary and contrary to law and in violation of Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme 1994 and consequently direct the respondents to pay the arrears of pension at the rate of Rs.1000/- per month to the members of the petitioner union for the period between the date of attaining the age of 60 years and till date of paying the pension to the memebtrs of the petitioner Union.

For Appellant : Mr.M.Karthikeyan,
Additional Government Pleader
For Respondents: Mr.Balan Haridas (R1)
R2 - served - no appearance

J U D G M E N T

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

The challenge in this Intra-Court Appeal is to the order dated 17.02.2016 in W.P.No.4322 of 2015 whereby and where under the learned Single Judge declared that the action taken by the appellant in restricting the date of pension to the date of sanction is not in consonance with the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994.

2.The Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 was framed by the Government of Tamil Nadu for the benefit of the employees in the construction and maintenance of dams, bridges, roads and in building operations. The Pension Scheme and more particularly, Clause-13 provides that every registered manual worker, who has completed 60 years, is eligible for pension. There is a pre-condition that the concerned worker must register his name before the Competent Authority under the Scheme.

3.The members of the 1st respondent Association were granted pension by the Competent Authority prospectively and more particularly, taking into account the date of sanction instead of the crucial date of completion of 60 years. The Authority maintained that the date of sanction is the crucial date and not the date on which the worker completed the age of 60 years. The Union therefore filed the Writ Petition for a declaration in W.P.No.4322 of 2015.

4.The learned Single Judge considered the scope and ambit of the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 and made a categorical declaration that the Competent Authority was not correct in restricting the date of pension to the date of sanction. Feeling aggrieved by the said order, the appellant is before this Court.

5.We have heard the learned Additional Government Pleader on behalf of the appellant. We have also heard the learned counsel on behalf of the 1st respondent.

6.The Government have framed a beneficial Scheme for the interest of the Construction Workers. The Scheme provides for registration and maintenance of Registers indicating the names, addresses and other details of the Manual Workers. The Workers have to declare their age while registering their name before

the Competent Authority. There is a statutory obligation on the part of the Government to pay the pension to the registered Manual Workers on completion of 60 years of age.

7.The Competent Authority has sanctioned pension to the members of the 1st respondent Union. However, the pension was not given from the date on which they have completed 60 years. The date of sanction has been taken as the crucial date.

8.The Competent Authority in the counter affidavit filed in W.P.No.4322 of 2015 contended that there are certain procedures to be complied with before sanctioning pension. The employee has to produce life certificate and similar other documents for the grant of sanction. Since those certificate were produced belatedly, the Authority granted pension from the date of sanction.

9.We are not in a position to agree with the contentions taken by the appellant. There is a statutory obligation to pay pension under the Scheme. The Manual Workers have to register their names. While registering their names, the Workers have to declare their age with relevant records to prove the age and other qualifications. The Competent Authority would be in the know of things with respect to the actual retirement age of the concerned Manual Workers. The Authority has to take earnest steps well before the actual retirement age to complete the formalities. The Manual Workers have no role to play in the process. It is the function of the Authority to collect the materials and to sanction pension well before the date on which the employee completes 60 years of age.

10.The learned Additional Government Pleader, in the course of his arguments, contended that the papers have to be sent to various Departments to ascertain as to whether the employee is in receipt of any other benefits under any other Scheme. Even such procedures can be completed by the Competent Authority well in advance, in case documents are sent to the concerned Departments to ascertain the facts. The procedural delay cannot be a reason to postpone the payment of pension to the Manual Workers.

11.We are of the view that the appellant was not correct in treating the date of sanction as the crucial date for payment of pension instead of the date of completion of 60 years, as indicated in the Scheme. The learned Single Judge considered this issue in the light of the Scheme and rightly declared that the appellant is not correct in considering the date of sanction for grant of pension. We are in full agreement with the views expressed by the learned Single Judge.

12.In the upshot, we dismiss the Intra-Court Appeal.

13.We direct the Competent Authority under the Scheme to pass a consequential order sanctioning pension, considering the employees involved in this litigation and also taking into account the date on which they completed 60 years of age. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this judgment. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

va

To

1.The General Secretary,
Tamil Nadu AITUC Kattida Thozhilalar Sangam,
Regn. No.2373, MDS Kovai Mavatta Kuzhu,
20, Dhandapani Street, Pappanaickenpalayam,
Kovai - 641 037.

2.The Secretary,
Tamil Nadu Construction Workers Welfare Board,
No.8, Vallurvarkottam High Road,
Nungambakkam, Chennai - 34.

+1cc to Mr.Balan Haridas, Advocate, S.R.No.24277

+1cc to the Government Pleader, S.R.No.24618

सत्यमेव जयते

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GMI (CO)

RRK (03/05/2018)

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