



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.8931 of 2018

M.Malarkuzhali

... Petitioner

Vs.

1. State of Tamil Nadu,
rep. by its Principal Secretary,
Finance Department (Pay),
Secretariat, Chennai.
2. State of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Omanthoorar Government Estate,
Chennai - 06.
3. State of Tamil Nadu,
rep. by its Secretary,
Personnel & Administrative Reforms Department,
Omanthoorar Government Estate,
Chennai - 06.
4. The Secretary,
Tamil Nadu Public Service Commission,
Greenways Road, Chennai.
5. The District Collector,
Collectorate,
Thanjavur, Thanjavur District.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent No.1 to pass orders on the petitioner's representation dated 19.07.2017 forwarded by he respondent No.5 vide proceedings in Na.Ka.24541/2017Ee1, dated .03.2018, signed on 07.03.2018 within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mrs.S.Srimathy, Spl.G.P.

For RR1 to 3 and 5

Mr.K.K.Senthil, for R4

**ORDER**

The prayer sought for herein is for a writ of Mandamus, directing the respondent No.1 to pass orders on the petitioner's representation dated 19.07.2017 forwarded by the respondent No.5 vide the proceedings in Na.Ka.24541/2017Ee1, dated .03.2018, signed on 07.03.2018 within the time stipulated by this Court.

2.Heard Mr.S.Louis, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents 1 to 3 and 5 and Mr.K.K.Senthil, learned counsel appearing for the fourth respondent.

3.The learned counsel appearing for the petitioner would submit that, when a similar issue came up for consideration before this Court in W.P.(MD) No.8241 of 2018, this Court by order dated 16.04.2018 passed the following order:

"The prayer in this writ petition is for a writ of mandamus, directing the respondent No.1 to pass orders on the petitioner's representation dated 01.07.2017 forwarded by the respondent No.5 vide the proceedings in Na.Ka.24541/2017Ee1, dated 28.07.2017 within the time stipulated by this Court.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and 5 and the learned standing counsel appearing for the fourth respondent.

3.The grievance of the petitioner is that though he was selected by the fourth respondent Service Commission and was allotted to Thanjavur District, where the post was already surrendered, he was not immediately given posting and only after sometime, he was given posting and he has been working now from 21.07.2004 onwards. However, in the meanwhile, those who got appointed prior to 01.04.2004 have been included in the Tamil Nadu General Provident Fund Account, whereas the petitioner's name had not been included in the said account, since he joined service only on 21.07.2004. Therefore, seeking parity along with the similarly placed persons, the petitioner had given a representation to the fifth respondent on 01.07.2017 and the same was forwarded by the fifth respondent to the first respondent on 28.07.2017. Therefore, the petitioner's representation as forwarded by the fifth respondent has to be considered by the first respondent and orders to that effect to be passed. Therefore, the learned counsel for the petitioner would submit that if a direction to that



effect is issued by this Court, the petitioner shall be satisfied.

4.I have heard the learned Additional Government Pleader appearing for the respondents 1 to 3 and 5 and the learned standing counsel appearing for the fourth respondent in this regard.

5.When a similar issue came up before this Court, this Court passed an order with the following direction:

"It is seen from the pleadings that the petitioner was selected the fourth respondent by Memorandum dated 24.08.2001. He was allotted Thanjavur District on 14.02.2002. Due to the post was surrendered by District Collector, he was not given appointment. After certain legal proceedings, the petitioner was allotted to Salem District by fourth respondent by Memorandum dated 16.07.2004 and the petitioner joined duty on 24.07.2004. The petitioner was selected in the year 2001 itself. Due to no fault of his, he was not given appointment till 16.07.2004. The persons who were selected along with the petitioner joined duty before 01.04.2003 and they were admitted in Tamil Nadu General Provident Fund Account. The seniority of the petitioner also restored along with the persons who were selected in the year 2001. Taking into account that the petitioner was selected in the year 2001 and was allotted in Thanjavur District in the year 2002. But was given posting only on 16.07.2004 and the persons who were selected along with petitioner were admitted in Tamil Nadu General Provident Fund Account, the petitioner is also entitled to the same benefit."

6.This Court feels that the petitioner also can be considered similarly and therefore, a direction can be given to the first respondent to that effect.

7.In the circumstances, the first respondent is directed to consider the representation of the petitioner dated 01.07.2017 as forwarded by the fifth respondent dated 28.07.2017, in the light of the aforementioned judgment extracted above and pass orders thereon, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

8.With this direction, this writ petition is disposed of. No costs.

4.In view of the said order, the learned counsel appearing for

the petitioner would submit that similar indulgence can be shown to the case of the petitioner as the petitioner also is similarly



placed.

5.I have heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents 1 to 3 and 5 and Mr.K.K.Senthil, learned counsel appearing for the fourth respondent.

6.The request of the petitioner has already been forwarded by the fifth respondent to the first respondent for consideration and the same is still pending with the first respondent.

7.In view of the said decision that a similar issue has already been considered, when a direction was given to consider such a request in the aforementioned writ petition, this Court is inclined to dispose of this writ petition, in the same line with the following direction:

"The petitioner's request, to permit her to shift from new pension scheme to old pension scheme taking into account the date of selection and posting order given at Thanjavur unit by the selection authority, shall be considered on merits and in accordance with law, on the basis of the forwarding report made by the fifth respondent dated 07.03.2018 and in the light of the judgment mentioned therein as well as judgment cited above and an order to that effect shall be passed by the first respondent, within a period of 12 weeks from the date of receipt of a copy of this order.

8.With this direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary,
State of Tamil Nadu,
Finance Department (Pay),
Secretariat, Chennai.
2. The Secretary,
State of Tamil Nadu,
Revenue Department,
Omanthoorar Government Estate,
Chennai.



3. The Secretary,
State of Tamil Nadu,
Personnel & Administrative Reforms
Department,
Omanthoorar Government Estate,
Chennai - 06.

4. The District Collector,
Collectorate,
Thanjavur,
Thanjavur District.

+ 1 cc TO Mr.S.Louis , Advocate in SR No. 63194
+ 1 cc TO Mr.K.K.Senthil , Advocate in SR No. 63279
+ 1 cc TO The Special Government Pleader in SR No. 63108

Arul
AE/SV MMS/SAR1/15.05.2018/5P/8C

W.P (MD) No.8931 of 2018
23.04.2018