

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 20.07.2018****CORAM:****THE HONOURABLE MR.JUSTICE R.SURESH KUMAR****W.P. (MD) No.15807 of 2018**

C.Dharmaraj

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Represented by its
Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai-600 009.

2.The Director of Rural Development & Panchayat Raj
Panagal Building, Saidapet, Chennai-600 015.

3.The Principal Accountant General (A&E)
Tamil Nadu, No.361, Anna Salai,
Chennai-600 018.

4.The District Collector,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the second respondent to implement the order of this Court made in W.P.(MD)No.31251 of 2016 dated 28.09.2016 by counting the 50% of the petitioner's service rendered in between 01.06.1972 and 20.01.1993 along with regular service for the purpose of granting pension.

For Petitioner

: Mr.A.Balaji

For R1, R2 and R4

: Mr.D.Muruganantham,

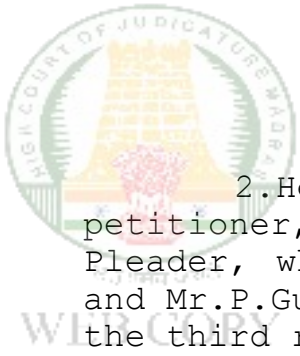
Additional Government Pleader.

For R3

: Mr.P.Gunasekaran

ORDER

The prayer sought for herein is for a Writ of Mandamus, to direct the second respondent to implement the order passed by this Court made in W.P.(MD)No.31251 of 2016 dated 28.09.2016, by counting the 50% of the petitioner's service rendered in between 01.06.1972 and 20.01.1993 along with regular service for the purpose of granting pension.



2. Heard Mr.A.Balaji, learned counsel appearing for the petitioner, Mr.D.Muruganantham, learned Additional Government Pleader, who takes notice on behalf of the respondents 1, 2 and 4 and Mr.P.Gunasekaran, learned counsel, who takes notice on behalf of the third respondent.

3. By consent of both parties, this Writ Petition is taken for final disposal at the stage of admission itself.

4. The petitioner in this case is seeking a direction, directing the respondents to implement the order already passed by this Court in W.P.(MD)No.31251 of 2016 dated 28.09.2016 filed by the petitioner.

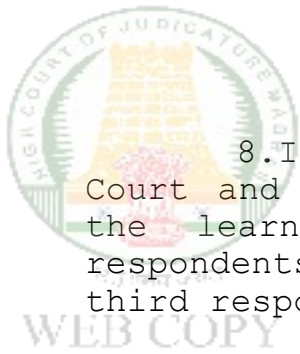
5. With regard to his grievance of considering 50 % of the past service for his service benefits, the petitioner already approached this Court and filed the said Writ Petition. In that writ petition, this Court, after having considered the merits of the case, passed the final order on 28.09.2016, whereby the learned Judge of this Court has passed the following order:-

"7. Since already this Court has quashed paragraph 4(b) of G.O.Ms.No.77 Rural Development and Panchayat Raj Department dated 12.07.2013 of the first respondent, there is no necessity to consider the said prayer. However, the petitioner is directed to give a representation before the 4th respondent along with a copy of the order within a period of two weeks from the date of receipt of a copy of the order. On receipt of the same, the concerned respondents are directed to pass appropriate order, in the light of the judgment made in W.A.Nos.259 of 2016 and 612 of 2016 within a period of six months thereafter.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed."

6. The learned counsel appearing for the petitioner would submit that pursuant to the said order passed by this Court, the petitioner had given a representation dated 23.01.2017 and remainder had also been sent on 11.02.2017. However, the respondents have not so far come forward to consider the said representations, in spite of long period of one year and more has already lapsed.

7. In this regard, the learned counsel appearing for the petitioner would submit that in view of the said inaction on the part of the respondents, this Court can issue another Mandamus through this Writ Petition and that is the reason why the petitioner has approached this Court by filing the present Writ Petition.



8.I have gone through the said materials placed before this Court and heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1, 2 and 4 and the learned counsel appearing for the third respondent.

9.No doubt, this Court has already given a direction on 28.09.2016, permitting the petitioner to give a representation to redress his grievance. Accordingly, he had given a representation on 23.01.2017, thereafter, remainder dated 11.02.2017 had also been sent. Further direction was given by this Court in the said order dated 28.09.2016 that such representation shall be considered and decided on merits, within a period of six weeks from the date of receipt of a copy of this order. However, even after long period, it is reported by the learned counsel appearing for the petitioner that the said representation of the petitioner has not so far been considered by the respondents. In that circumstances, it is open to the petitioner to pursue the matter for implementation of the order by invoking proper provisions of law.

10.There cannot be further Mandamus to be issued by this Court to implement the order passed by this Court by way of Mandamus already issued. However, the inaction on the part of the respondents in not considering the said representation of the petitioner dated 23.01.2017 and remainder dated 11.02.2017, pursuant to the order passed by this Court dated 28.09.2016 in W.P.(MD) No.31251 of 2016, cannot be approved and in fact, it is to be deprecated. When the Court passes such order, it is the duty of the respondents to comply with the same and when time bound orders are passed, the party / respondents / authority, to whom such direction has been given, shall scrupulously follow the said time bound order and in this regard, the delay on the part of the respondents is not appreciable and therefore, this Court expects that the order of this Court would be complied with by the respondents at the earliest.

11.With this observation, this Writ Petition is disposed of. No costs.

SD
ASSISTANT REGISTRAR (CO)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS II)

Myr



To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai-600 009.

2.The Director of Rural Development & Panchayat Raj
Panagal Building, Saidapet, Chennai-600 015.

3.The District Collector,
Tirunelveli District,
Tirunelveli.

1CC TO MR. A. BALAJI, ADVOCATE SR 74197

1CC TO THE SPL GOVT PLEADER SR 74254

1CC TO MR. P. GUNASEKARAN ADVOCATE SR 74292

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W.P (MD) No.15807 of 2018

20.07.2018