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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10666 of 2013

C.Vaijyanthi

..Petitioner

Vs

1. The State of Tamil Nadu

Rep. by the Secretary
Department of Social Welfare
Govt. of Tamil Nadu
Secretariat
St. George Fort
Chennai.

2. Union of India

Rep. by the Principal Accountant General
(Accounts & Entitlements)
No.361, Anna Salai,
Chennai-600 018.

.. Respondents

Prayer:- This Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent made in P27/1/PT/5580/1113/98264 dated 11.07.2012 and quash the same, consequent to direct the 2nd respondent to authorize the pension and other terminal benefits to the petitioner based on G.O. Ms.No.6, Social Welfare and Nutritious Meal Department, dated 06.01.2010 by counting 50% of service rendered by the petitioner in non-pensionable Post along with the regular service.

For Petitioner : Mr.C.Premkumar

For Respondents : Mr.K.K.Ramesh,
Government Advocate for R1
Mrs.Hema Muralikrishnan for R2

O R D E R

This Writ Petition has been filed challenging the order passed by the 2nd respondent and directing the 2nd respondent to authorize the pension and other terminal benefits to the petitioner based on G.O. Ms.No.6, Social Welfare and Nutritious Meal Department, dated 06.01.2010 by counting 50%



of service rendered by the petitioner in non-pensionable Post along with the regular service.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

3. The Writ Petitioner was appointed as Anganwadi worker Grade / Integrated Child Welfare Organizer (ICWO) at Manawalankarai Tirumayam Taluk, Pudukottai District on 13.12.1980. Thereafter, the service of the petitioner was regularized only from 03.10.2018 and transferred as Supervisor II Integral Child Development Scheme (ICDS) Project office on 06.02.2009 and served without break upto 31.10.2011 till his retirement from service. The petitioner made a representation on 27.04.2012 to the 2nd respondent and another representation dated 26.06.2012 to the 1st respondent requesting them to pass an appropriate order to sanction the pensionary benefits. The CDPO, Tirumayam also sent the petitioner's pension proposal to the 2nd respondent, but it was not sanctioned. The 2nd respondent in their order dated 11.07.2012, stated that the petitioner joined in the supervisory post on 03.12.2008 which is subsequent to the notification dated 01.04.2003 from which date those joined in service are not eligible for regular pensionary benefits. The said notification dated 01.04.2003 do not bind over the petitioner as his post of Anganwadi Worker has been regularised and brought under the Permanent establishment from 1.1.1996 vide G.O No.2 dated 03.01.1996 and therefore, the petitioner's qualifying service counts from 01.01.1996 to 31.10.2011. The G.O No.6 dated 6.1.2010 of Department of Social Welfare allows 50% of services rendered in consolidated allowances to be added to the qualifying service and his actual service commenced from 13.12.1980. Till date, the petitioner's representation was not considered. Challenging the order passed by the 2nd respondent, the present writ petition is filed.

4. The learned counsel for the Writ petitioner brought to the notice of this Court that the petitioner made a representation to the 1st respondent on 26.06.2012. Therefore, he seeks a direction to the 1st respondent to consider the said representation of the petitioner for counting the period of service prior to the regularization of service in the first respondent department. Further, it is submitted that in the impugned order, it has been wrongly mentioned that the petitioner service was regularized with effect from 03.10.2008, but actually the petitioner service was regularized from 01.01.1996. While rejecting the claim, no proposal has been received by the 2nd respondent till the date of passing the impugned order. Therefore, he prays to



consider the petitioner's representation and pass orders in accordance with law.

5. The learned Government Advocate appearing for the first respondent would submit that there is no records to prove that the petitioner made a representation on 26.06.2012 to the first respondent. If any such representation is received, the same shall be considered in accordance with law.

6. In the light of the aforesaid submissions of the parties concerned, this Court is inclined to pass the following order:

i) The Writ Petitioner shall make a fresh representation to the 1st respondent by enclosing the earlier representation dated 26.06.2012 to the 1st respondent within a period of four weeks from the date of receipt of a copy of this order.

ii) If any such representation is received, the same shall be considered in accordance with law by taking note of the G.Os and pass orders, as expeditiously as possible more preferably, within a period of twelve weeks on receipt of the said representation.

iii) If no such representation is received within the said period, the 1st respondent shall not consider the regularization of the writ petitioner service.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
Department of Social Welfare
Govt. of Tamil Nadu
Secretariat
St. George Fort
Chennai.

2. The Principal Accountant General
(Accounts & Entitlements)
No.361, Anna Salai,
Chennai-600 018.



+1cc to Mr.R.Malaichamy, Advocate SR.102696

+1cc to Mr.Hema Muralikrishnan, Advocate SR.102460

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AD(CO)
CB(23/01/2020)