

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.34302 of 2018

A.Chandra

...

Petitioner

Vs

1. The Government of Tamil Nadu
Rep by its Secretary Revenue Department
Fort St. George Chennai - 600 009

2. The Assistant Collector
Vellore Vellore District.

3.The Tahsildar
Wallajah Taluk Vellore District

4.The Accountant General of Tamil Nadu
Office at DMS Compound Teynampet
Chennai -600 018.

..... Respondents

For Petitioners :M/s.S.Mani

For Respondents :Mr.R.S.Selvam,
Government Advocate - For RR1-3
Mr.Vijayashankar - for R4

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus Calling for the records relating to the impugned order dated 14-02-2018 vide O.Mu.A2/1022/2018 passed by the 3rd respondent quash the same as illegal and consequently direct the respondents herein to pay family pension w.e.f. 18.04.2013 as per Pension Rules 49(2) (a) of Tamil Nadu Pension Rules 1978 with all other consequential benefits if necessary count the half of service rendered by the petitioners husband on daily rated basis from 01.12.1980 till 31.05.1995.

O R D E R

This writ petition has been filed seeking a writ of Certiorarified Mandamus, challenging the impugned order dated 14.02.2018, passed by the third respondent, whereby the claim of

the petitioner for family pension has been rejected on the ground that the petitioner's husband did not have the qualifying service of 10 years. It is specifically stated in the impugned order that the petitioner's husband Late Appadurai was in service from 01.06.1995 to 31.05.2002, which is less than the period of ten years, which is required for grant of family pension and therefore the claim is rejected. Learned counsel relies on Section 49(2-A) of the Tamil Nadu Pension Rules 1978. The said rule is extracted below.

"Section 49(2-A) : The family pension payable to the family of a Government Servant or a retired Government Servant, who died on or after 01.04.1979, shall be regulated as under, provided he has completed continuous Government service for a period of not less than two years."

2. Mr.R.S.Selvam, learned Government Advocate takes notice on behalf of the respondents 1 to 3 and Mr.Vijayashankar, Standing Counsel takes notice on behalf of the fourth respondent. Heard the learned counsel appearing on either side and perused the materials placed on record.

3. This Court is of the view that the impugned order is liable to set aside, as the respondents have dealt with the representation of the petitioner dated 08.01.2018, without considering Section 49 (2-A) of the Pension Rules. Accordingly, the impugned order dated 14.02.2018 is hereby quashed and the respondents are directed to re-consider the representation of the petitioner dated 08.01.2018 in the light of Section 49(2-A) of the Tamil Nadu Pension Rules 1978, and pass appropriate orders thereon, within a period of eight weeks from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kst

To

1. The Government of Tamil Nadu
Rep by its Secretary Revenue Department
Fort St. George Chennai - 600 009

2. The Assistant Collector
Vellore Vellore District.

3. The Tahsildar
Wallajah Taluk Vellore District

4. The Accountant General of Tamil Nadu
Office at DMS Compound Teynampet
Chennai -600 018.

+1 cc to Mr.S.Mani, Advocate, S.R.No.339

+1 cc to the Government Pleader, S.R.No.1052

W.P.No.34302 of 2018

SSV(CO)
SSM(26/03/2019).



WEB COPY