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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.10.2018
CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

REVIEW APPLICATION(MD)No.42 of 2018 in

W.P.(MD)No.9868 of 2016 and

W.M.P.(MD)No.18202 of 2018 and

CONT.P.(MD)No.960 of 2018 in

W.P.(MD)No.9868 of 2016

REVIEW APPLICATION(MD)No.42 of 2018 in
W.P.(MD)No.9868 of 2016

The Labour Welfare Officer,
Welfare of Handloom Weavers Labour Scheme,
Social Welfare Department Labour Board,
Ellis Nagar, Madurai District. ... Review Petitioner/
Respondent
Vs.

G.V.Gnaneswaran ... Respondent/Writ petitioner

PRAYER : Review petition is filed under Section 114 r/w Order 47 Rule 1 of C.P.C., to review the order dated 10.01.2018 passed in W.P.(MD)No.9868 of 2016 and set aside the same and dismiss the writ petition.

For Petitioner : Mrs.S.Srimathy,
Special Government Pleader.
For Respondent : Mr.J.Vijayaraja

CONT.P.(MD)No.960 of 2018 in
W.P.(MD)No.9868 of 2016

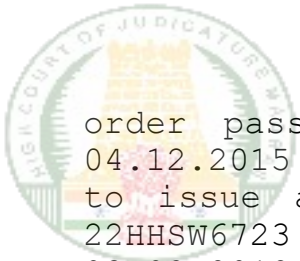
G.V.Gnaneswaran ... Petitioner/Petitioner
Vs.

J.Kalidhass,
Labour Welfare Officer,
Welfare of Handloom Weaver's Labour Scheme,
Social Welfare Department Labour Board,
Ellis Nagar,
Madurai District. ... Contemnor/Respondent

PRAYER : Contempt petition is filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for his willful, deliberate, disobedience of the order of this Court made in W.P.(MD) No.9868 of 2016, dated 10.01.2018.

Prayer in WP(MD). 9868/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the impugned



order passed by the Respondent bearing Na.Ka.No.1458/2015 dated 04.12.2015 and quash the same and consequently direct the respondent to issue a Handloom Weavers aged old pension scheme in Reg No. 22HHSW6723 dt 30.04.2007 based on the petitioners application dated 03.02.2012 to disburse the aged old pension with arrears.

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For Petitioner : Mr.J.Vijayaraja

For Respondent : Mrs.S.Srimathy,
Special Government Pleader.

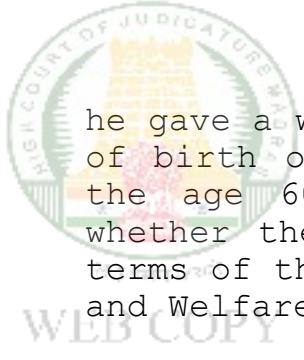
C O M M O N O R D E R

The Writ petitioner G.V.Gnaneswaran, got enrolled as a member in the Tamil Nadu Handloom and Handloom Weaver Welfare Board on 30.04.2007. He gave his age as 49 at the time of enrollment. Therefore, the authorities noted his year of birth as 1958. The Writ petitioner failed to renew his membership when it became due for renewal on 29.04.2011. He renewed his membership only on 27.05.2012. In the very same year, the Writ petitioner raised a claim that he should be paid his pensionary benefits as he had already attained the age of 60 years. The authority denied the said request. Therefore, the Writ petitioner knocked the doors of this Court by filing a Writ petition. W.P.(MD)No.9868 of 2016 filed by the Writ petitioner was allowed by this Court on 10.01.2018. The Labour Welfare officer was directed to disburse the old age pension amount to the Writ petitioner with arrears. Questioning the same, the authority filed a Writ appeal before the Hon'ble Division Bench. Since certain facts which were not placed before me were made the grounds of the Writ appeal, the Hon'ble Division Bench permitted the Labour Welfare officer to file a Review petition. In terms of the liberty granted by the Hon'ble Division Bench, Review application (MD) No.42 of 2018 has been filed.

2. Since the order originally passed by me was not complied with, the Writ petitioner filed Contempt petition(MD)No.960 of 2018.

3. Heard the learned counsel appearing for the Writ petitioner as well as the learned Special Government Pleader.

4. Since the whole thing turned on the actual date of birth of the Writ petitioner, this Court called upon the learned Special Government Pleader to obtain instructions regarding the actual date of birth of the Writ petitioner. The Madurai Corporation by their communication dated 08.10.2018 has informed the Review applicant that the Writ petitioner's actual date of birth is 21.10.1951. In fact the Writ petitioner's birth was registered on 26.10.1951. The registration number is 1596/1951/05. It is true that the Writ petitioner erroneously mentioned his age as 49 when he got enrolled in the year 2007. But the valuable rights of the Writ petitioner to receive pension on his completing the age of 60 years cannot be taken away, merely because he had made a mistake with regard to that



he gave a wrong information with regard to his age. The correct date of birth of the Writ petitioner is 21.10.1951. He would complete the age 60 years on 21.10.2011. Now the question that arises whether the Writ petitioner has to be paid the pension amounts in terms of the scheme of the Tamil Nadu Manual Workers Social Security and Welfare Scheme, 2006 with effect from the said date.

5. The learned Special Government Pleader points out that the Writ petitioner's membership lapsed on 29.04.2011 and that it was renewed only on 27.05.2012. The learned Special Government Pleader would further point out that in view of the lapse of non renewal of his membership, the Writ petitioner will not be entitled to the benefits under the welfare scheme. I partly concur with the said submission. Rule 14(4) of the scheme reads that even if the member is readmitted, he shall not be eligible to claim any benefits that may become due during the period of non-renewal.

6. The learned Special Government Pleader would strongly contend that the Writ petitioner cannot take advantage of the renewal of membership on 27.05.2012. According to her, the renewal was effected, since the authorities were under the impression that the Writ petitioner was below the age of 60. As per the Rule 9(1) of the scheme, any manual worker who has completed the age of 18 years but not completed 60 years, may register his name with the Board to become a member of the Scheme. Therefore, any renewal of the membership cannot be made after 60 years.

7. I am unable to agree with the said submission. It is not in dispute that the Writ petitioner was originally a member of the scheme. He had enrolled himself on 30.04.2007. The membership will be allowed for a period of two years. Obviously, he renewed his membership in the year 2009 also. But when his membership due became for further renewal on 29.04.2011, he omitted to do so. But then, Rule 14(3) of the scheme enables the readmission of the registered manual worker whose membership ceased under sub-clause (2). The said provision authorised the labour officer of the social security scheme to readmit the membership of manual worker whose membership lapsed on account of failure to renew the registration. In this case, the authorities have readmitted the Writ petitioner. It may be because of misconception. But the facts remains that the Writ petitioner was readmitted.

8. I am of the view that the manual worker cannot seek admission as a member of the scheme for the first time after he crossed the age of 60. But in this case he was already inducted as a member of the scheme. Hence his omission to renew will not come in the way of his re-admission. These are all welfare measures. Therefore, they cannot be construed strictly as contended by the learned Special Government Pleader. They will have to receive a liberal interpretation.

9. However, in as much as the rule itself holds that the member



cannot claim the benefits during the period of non renewal, I am of the view that the Review application will have to be partly allowed. The Writ petitioner will be entitled to pensionary benefits with effect from 28.05.2012.

10. The learned Special Government Pleader submits that the benefits payable to the petitioner will be disbursed within a period of eight weeks. It is further submitted that the Writ petitioner will be paid monthly pension due under the scheme.

11. The learned Special Government Pleader highlights one practical difficulty that is being faced by the authorities. They will have to be necessarily go by the age given by the applicants at the time of enrollment. If this were to be modified on account of production of any new material later, there will be administrative difficulties.

12. I find considerable force in the said request. It is made clear that this order is passed taking into account the peculiar circumstances obtaining in this case. This order will not be cited as the precedent.

13. The Review application stands partly allowed. The Contempt petition stands closed, accordingly. No costs. Consequently, connected W.M.P.(MD)No.18202 of 2018 is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Labour Welfare Officer,
Welfare of Handloom Weavers Labour Scheme,
Social Welfare Department Labour Board,
Ellis Nagar, Madurai District.

+1cc to SPL.Govt.Pleader, Sr.No.91779

+2cc to Mr.J.Vijayaraja, Advocate Sr.No.92159,92160

PMU
KM/RSK/SAR3/24.01.2019/4P/5C

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