



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.19768 of 2019

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R.Ponnappan

... Petitioner

Vs.

1.The Director of Rural Development and Panchayat Raj,
Panagal Buildings,
Saidapet,
Chennai-600 015.

2.The District Collector,
Kanyakumari District @
Nagercoil-629 001.

... Respondents

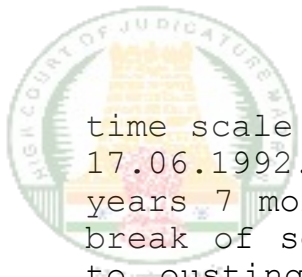
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent i.e., the Director of Rural Development and Panchayat Raj Department, Chennai to pass appropriate orders on the revised proposals sent by the District Collector, Kanyakumari @ Nagercoil in his R.C.V3/4628/2013 dated 08.03.2017 for the purpose of revising the petitioner's pensionary benefits counting the Contingent Service put in by him within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.S.Dhayalan,
Government Advocate

ORDER

This writ petition is filed for a direction directing the first respondent to pass appropriate orders on the revised proposals sent by the District Collector, Kanyakumari @ Nagercoil, in his R.C.V3/4628/2013, dated 08.03.2017, for the purpose of revising the petitioner's pensionary benefits, counting the Contingent Service put by him, within a specified time frame that may be fixed by this Court.

2. According to the petitioner, he was working as Selection Grade Group Clerk-cum-Bill Collector in the office of the Panchayat Union, Melpuram @ Pacode, Vilavancode Taluk, Kanyakumari District. He is getting the pension as per the proceedings in R.Dis.No.38535/PUP/V3/12, dated 18.12.2012. The grievance of the petitioner is that, he entered into service as Contingent Employee and continued in the said post till he was absorbing in the regular



time scale of pay as Group Clerk-cum-Bill Collector with effect from 17.06.1992. He served as Contingent Employee for a period of 12 years 7 months and 7 days. In the contingent service, there was a break of service for a period of 4 years 11 months and 28 days due to ousting for want of vacancy. In view of the said break in service, the Director of Local Fund Audit, Chennai, did not count the 50% of the service put by the petitioner as Contingent Employee and he was directed to obtain the orders of the Government to ignore the break in service for the purpose of calculating the service of the petitioner as Contingent Employee, excluding the period of break in service. Therefore, the petitioner has made a representation, dated 05.02.2013, to condone the delay of 4 years 11 months and 28 days as per the specific provision made in G.O.No.41 Finance (Pension) Department, dated 09.02.2010, based on the Government Letter No.52717/Finance (Pension) Department 2009-1, dated 23.10.2009. The second respondent has sent a proposal by proceedings dated 30.07.2019, to the first respondent for condoning the break period of 4 years 11 months and 28 days for calculating 50% of service as Contingent Employee and thereafter, he has also furnished further particulars as called for by the first respondent by the proceedings dated 08.03.2017. But the first respondent has not passed any orders on the proposals. Hence, the petitioner has come out with the present writ petition for a direction to the first respondent to pass orders on the proposals sent by the second respondent.

3. Mr.S.Dhayalan, learned Government Advocate appearing for the respondents submitted that as per the Pension Rules, the petitioner is not entitled for calculating the 50% of the service as he had break in service for a period of period of 4 years 11 months and 28 days.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

5. In view of the submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents, without deciding the issue on merits, this Court directs the first respondent to consider the proposal sent by the second respondent dated 30.07.2013 and revised proposal dated 08.03.2017, and pass orders on the same on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)



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+1 CC to MR.S.VISVALINGAM, Advocate (SR-91729[F] dated 14/10/2019)
+1 CC to SPL GP (SR-91932[F] dated 15/10/2019)

W.P. (MD) No.19768 of 2019
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VB(29.11.2019) 3P 5C