



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2020

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THE HON'BLE MRS. JUSTICE J.NISHA BANU

**W.P. (MD)No.10105 of 2015
and
M.P (MD) .No.1 of 2015**

S.Sarawathi

... Petitioner

Vs.

1.The Director of Town Panchayat
Office of Local Fund Audit
Kuralagam, 4th Floor
Chennai 600 108

2.The Assistant Director of Town Panchayat
Theni, Theni District

3.The Executive Officer
Vadugapatti Town Panchayat
Theni District

... Respondents

PRAYER: Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, directing the respondents to disburse the retirement benefits to the petitioner who retired on 31.07.2012 as Sweeper under the 3rd respondent Town Panchayat and the monthly pension, revised pension and arrears pension from the date of his retirement ie., from 31.07.2012 together with simple interest of 7.5% p.a., within a reasonable time.

For petitioner

... Mr.K.Appadurai

For respondents 1 & 2

... Mr.S.Dhayalan
Government Advocate

For 3rd respondent

... Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner for a direction to the respondents to disburse the retirement and pensionary benefits to him from the date of his retirement ie., from 31.07.2012 together with simple interest at the rate of 7.5% p.a.,



within a stipulated time.

2. The learned counsel for the petitioner would submit that the petitioner was appointed as Sweeper in the third respondent Town Panchayat on 01.07.1989 through Employment Exchange. At the time of joining duty, the petitioner produced a medical certificate in order to prove her date of birth as 06.07.1958 and the same was accepted by the authority. After 24 years of service, in the year 2012 the petitioner opted for voluntary retirement due to physical instability and the same was accepted and she was allowed to go on voluntary retirement by order dated 31.07.2012. In these circumstances, when the petitioner approached the third respondent requesting for her terminal and retirement benefits, she was informed that her date of birth as per SSLC mark sheet is 09.05.1949 and as such, she ought to have been allowed to retire from service on 31.05.2009 and the subsequent period of her service has to be ratified. He would further submit that the petitioner had not furnished any SSLC mark sheet to show her date of birth as 09.05.1949, but she had produced only the medical certificate issued by a Medical Officer. Even after a lapse of two years, the respondents have not given retirement as well as pensionary benefits and hence, the petitioner has filed this writ petition.

3. The learned counsel for the respondents submitted that they are ready to disburse the retirement benefits by taking into consideration the date of retirement of the petitioner as 31.05.2009, if the petitioner will not claim interest for the belated payment.

4. At this juncture, the learned counsel for the petitioner submitted that the petitioner will not claim interest for the belated payment and that the respondents may be directed to pay pension without any recovery order.

5. Admittedly, the petitioner had worked rightly or wrongly for the period between 01.06.2009 and 31.07.2012, for which she had also received salary. It is seen from the record that the second respondent has forwarded a proposal, dated 20.05.2013, to the first respondent to treat the said period of service of the petitioner as reemployment and the same is still pending without any consideration. In view of the above, the first respondent is directed to consider proposal submitted by the 2nd respondent dated 20.05.2013 and pass orders on the same within a period of two weeks from the date of receipt of a copy of this order. On such approval, the second and third respondents are directed to disburse the retirement benefits to the petitioner within a period of twelve (12) weeks thereafter by taking into consideration the date of retirement of the petitioner as 31.05.2009. As accepted by the petitioner, the interest for the belated payment need not be given to her. At the same time, no recovery should be made by the respondents from the petitioner in respect of the issue of date of



retirement.

6. This Writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa/gcg

To

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Office of Local Fund Audit
Kuralagam, 4th Floor
Chennai 600 108

2.The Assistant Director of Town Panchayat
Theni, Theni District

3.The Executive Officer
Vadugapatti Town Panchayat
Theni District

+1 CC to M/s.SPL.GP (SR-2319[F] dated 22/01/2020)

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JMN(02.03.2020) 3P : 5C