



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.16582 of 2016

N.Pandi

... Petitioner

-Vs-

1.The Director of Local Fund Audit,
4th Floor, Kuralagam, Chennai.

2.The Executive Officer,
Town Panchayat,
Manamadurai, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order dated 20.06.2016 in Na.Ka.No.A2/229/2016, and quash the same and consequently, direct the second respondent to forward pension proposals to the first respondent.

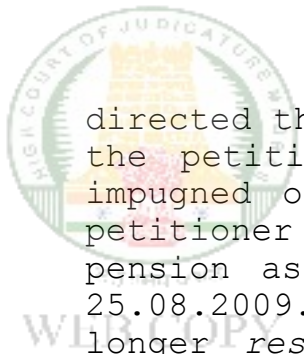
For Petitioner : Mr.S.Sekar

For R1 : Mr.S.Dhayalan,
Government Advocate.

ORDER

The order of the second respondent dated 20.06.2016 is sought to be quashed in the present Writ Petition. Further direction is sought for to direct the second respondent to forward pension proposals to the first respondent.

2.According to the petitioner, he was appointed as Water Supply Helper in the second respondent office on 01.02.1992 on daily wage basis. Subsequently, when a permanent vacancy arose, the petitioner was appointed on 01.03.2001 on consolidated pay. The petitioner was brought under time scale of pay with effect from 01.03.2004 on consolidated pay. The petitioner retired from service on 13.09.2014, on attaining the age of superannuation. The second respondent did not send the proposal for pension. Therefore, the petitioner gave a representation dated 13.04.2016 and the same has not been considered by the respondents. Therefore, he has filed W.P. (MD) No.8677 of 2016. This Court, by the order dated 28.04.2016,



directed the respondents therein to dispose of the representation of the petitioner dated 13.04.2016. The second respondent, by the impugned order dated 20.06.2016, has rejected the request of the petitioner and stated that the petitioner is not entitled for pension as per G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009. The issue involved in the present Writ Petition is no longer *res integra*. Hence, the petitioner has filed this Writ Petition, challenging the order of the second respondent dated 20.06.2016.

3.The learned Government Advocate appearing for the first respondent submitted that as per G.O.Ms.No.259, Finance (Pension) Department, dated 06.08.2003, the persons, those who were appointed from 01.04.2003, are not entitled for pension. In the similar issue, the State Government has filed S.L.P.(C)No.38123 of 2018 before the Hon'ble Apex Court and obtained interim orders and prayed for dismissal of the Writ Petition.

4.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent and perused the materials available on record carefully.

5.From the materials on record, it is seen that the petitioner was initially appointed on daily wage basis on 01.02.1992. Subsequently, when a permanent vacancy arose, he was appointed on 01.03.2001 on consolidated pay in a permanent vacancy. The petitioner was brought under regular time scale of pay in the consolidated wages on 01.03.2004 and retired from service on 13.09.2014, on attaining the age of superannuation. The date, on which the petitioner was brought under time scale of pay, is not a criteria for the purpose of granting pension. The date of appointment has to be taken into consideration to decide whether the petitioner is entitled for pension or not. In the present case, the petitioner was appointed on 01.02.1992 on daily wage basis and on 01.03.2001 in a permanent vacancy on consolidated pay. He was brought under regular time scale of pay in the consolidated wages on 01.03.2004. In view of the said appointment of the petitioner on 01.03.2001, G.O.Ms.No.259, Finance (Pension) Department, dated 06.08.2003, is not applicable to the case of the petitioner, as the case may apply only to the persons, who are appointed on or after 01.04.2003. The Division Bench of this Court in the judgment dated 30.09.2015 in W.A.(MD)No.1026 of 2015, has held that the persons, who were appointed before 01.04.2003 and regularized on or after 01.04.2003, are entitled to regular pension. Subsequently, the respondents have implemented the said order by issuing G.O.Ms.No.259, Municipal Administration and Water Supply Department, dated 17.06.2016. The said ratio mentioned in the judgment dated 30.09.2015 made in W.A.(MD)No.1026 of 2015, is squarely applicable to the facts of the present case.



6. For the above reasons, this Writ Petition stands allowed.
No costs.

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// True Copy //

Sd/-

Assistant Registrar(AD-II)

Sub Assistant Registrar(CS)

Myr
To

The Director of Local Fund Audit,
4th Floor, Kuralagam, Chennai.

+1CC TO MR.J.ANANDKUMAR, Advocate Sr. No.96921
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 98289

W.P. (MD) No.16582 of 2016
08.11.2019

AL(CO)
TR(10.12.2019) 3P 4C