

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

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THE HON'BLE MR.JUSTICE M. DHANDAPANI

W.P.No. 13314 of 2013

V.Krishnaraj

...Petitioner

Vs.

1. The Secretary to Government,
Industries Department,
F.S.G., Chennai-9.

2. The Director of Industries and Commerce,
No.38, Canal Bank Road,
Mandaveli, Chennai - 600 028.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein, more particularly the first respondent to count and club petitioner's past service of 14 years, one month, 11 days as unskilled worker in the Government Scientific Glass Training Centre, Chennai - 32 from 28.03.71 to 08.05.85 A.N. which comes under the same Industries Department for the purpose of pension and other pensionary benefits, with the present length of pensionable service already taken into consideration, with that of the past service rendered in the Government Scientific Glass Training Centre, Chennai - 32 from 28.03.71 to 08.05.1985 with the present one from 07.08.85 F.N. to 31.05.2012 A.N., condoning the break in service of 90 days in service from 09.05.85 F.N. to 06.08.85 A.N. for the purpose of revision in the pension and for other pensionary benefits with arrears thereon from 31.05.2012 A.N.

For Petitioner : Mr.A.L. Namasivayam

For Respondents : Mr.S. Thangavel, Spl. GP

ORDER

This writ petition is filed by the petitioner, to direct the first respondent to count and club petitioner's past service of 14 years, one month, 11 days as unskilled worker in the Government Scientific Glass Training Centre, Chennai - 32 from 28.03.71 to 08.05.85 A.N. which comes under the same Industries Department for the purpose of pension and other pensionary

benefits, with the present length of pensionable service already taken into consideration, with that of the past service rendered in the Government Scientific Glass Training Centre, Chennai - 32 from 28.03.71 to 08.05.1985 with the present one from 07.08.85 F.N. to 31.05.2012 A.N., condoning the break in service of 90 days in service from 09.05.85 F.N. to 06.08.85 A.N. for the purpose of revision in the pension.

2.The case of the petitioner is that he entered the service as unskilled worker in the Government Scientific Glass Training Centre Guindy, Chennai-32 on 28.03.1971 and subsequently his services were also regularized by creating a supernumerary post vide G.O.4(D) No.11, dated 16.03.2001 in the post of semi skilled worker with effect from 01.01.1977. Subsequently the Production Wing of Government Scientific Glass Training Centre, Guindy was closed and the temporary post of semi skilled worker in which the petitioner was employed was disbanded and consequently without issuing any previous notice, the petitioner was retrenched from service on 08.05.1985 A.N. However, considering his case for providing of employment opportunity , subsequently, Government appointed him as Records Clerk in the Directorate of Geology and Mining, Guindy, Chennai 32, where he joined on 07.08.1985 F.N. Subsequently he was posted as Office Assistant in Geology and Mining Department with effect from 01.07.1987. He was allowed to retire on 31.05.2012 after attaining the age of superannuation. Since The break of service of 90 days between 09.05.1985 to 06.08.85, the petitioner was paid a retrenchment compensation of Rs.4,105/- on 15.05.1985 for the services rendered by him upto 08.05.1985, however, his past services rendered by him i.e., regularized unskilled worker from 28.03.1971 to the date of his retrenchment on 08.05.1985 A.N (for about 14 years 1 month and 11 days), was not considered for the purpose of pension. The petitioner made several representations to the respondents to consider his request, however till date no action is forthcoming. Hence the present writ petition.

3. Learned counsel appearing for the petitioner submitted that similarly situated person namely one K.Kandeeban, filed writ petition in W.P.No.7980 of 2019 and based on the order of this Court, his past service in the supernumerary post from 01.07.1977 to 08.05.1985 in Government Scientific Glass training Centre, Guindy, Chennai -32, was clubbed with the service rendered in the department of Geology and Mining for the purpose of pension and pensionary benefits, which fact has been admitted by the respondents in their counter affidavit at paragraph Nos.15 and 17. However, similar treatment has not been meted out to the petitioner and, therefore, he prays for a similar direction in favour of the petitioner.

4. On the above contention, this Court heard the learned Special Government Pleader appearing for the respondents, who did not dispute the stand of the petitioner and submitted that this Court may issue necessary direction to consider the case of the petitioner in the light of the order passed in W.P. No.7980/2019 within a prescribed time frame fixed by this Court.

5. It is borne out by record that one K.Kandeeban, a person, similarly situated like the petitioner, who was retried on 30.06.2006, filed WP.No.7980 of 2019 and obtained an order in his favour based on which his past services were counted for the purpose of pension and other pensionary benefits. The above fact is not disputed by the respondents. Though the petitioner claims that he is eligible for consideration of pension from the year 1971, however, the respondent claims that his services were regularized in the post of semi skilled worker only in the year 1977, by creating supernumerary post and, therefore, only on and from the said date, the petitioner is entitled for having his service counted.

6. Be that as it may. Person similarly situated to the petitioner having already been granted the benefit of counting of past service vide order of this Court in W.P. No.7980/19, this Court is inclined to issue a positive direction to the first respondent to extend the benefits to the petitioner as well.

7. Accordingly, this writ petition is allowed and the 1st respondent is directed to extend pension and other pensionary benefits to the petitioner, as was granted to one K.Kandeeban by this Court in W.P. No.7980/19 within a period of 12 weeks from the date of receipt of copy of this order. There shall be no order as to costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jrs
To

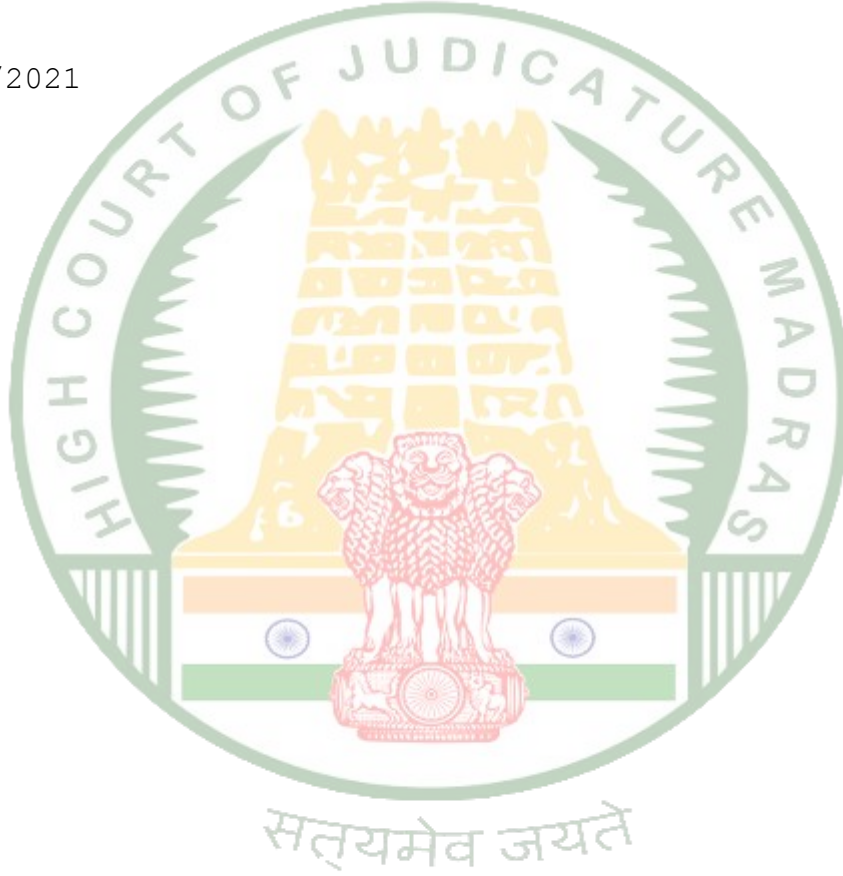
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+1cc to M/s.A.L.Namasivayam, Advocate Sr.39091
+1cc to the Government pleader Sr.38876

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