

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.17754 of 2013
and
WMP.No.6364 of 2017

Nagarathinam

.. Petitioner

vs.

1.The Regional PF Commissioner,
Employees Provident fund Organization,
Regional Office,
NO.37, Rayapettach High Road,
Chennai.

2.The SDB CISCO(India) Pvt. Ltd.,
4th Avenue,
Harrington Road,
Chetpet,
Chennai.

3.The Regional Office,
SDB CISCO (India) Ltd,
VVP Nagar,
Thattanchavadi,
Puducherry.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to disburse the pension amount due to the petitioner from 28.10.2005 to till date including the future pension and other retirement benefits due to the petitioner by considering representation dated 27.11.2012.

For Petitioner : M/S.G.Rajan
For Respondent(s) : Mr.V.Sundareswaran for R1

ORDER

This writ petition has been filed by the petitioner, to direct 1st respondent to disburse the pension amount from 28.10.2005 to till date including the future pension and other retirement benefits due to him by considering representation dated 27.11.2012.

2. According to the petitioner he had served under the Central Reserve Police for more than 22 ½ years at various places in India and had retired from the service in the year 1988. After retirement he searched job in security service. While being so the second respondent herein advertised for security service jobs. The second respondent authorities have appointed the petitioner for the post of Assistant Security Officer on 05.01.1994, after completing the selection test and other formalities, under the control and administration of the 3rd respondent. During the course of his services, he has been deputed as security for various Banks and private companies and organization at the instance of 2nd respondent. He has continued in the service of the second respondent for more than 12 years until the retirement on 27.10.2005. It is the averment made by the petitioner that while he was in service, the State Government of Tamilnadu floated a scheme called workers pension scheme in the year 1995. Under this scheme, any person is eligible for grant of pension and for that he has to complete minimum period of 10 years of service. The second respondent authorities have deducted the monthly salary of the petitioner and contributed to the said scheme. According to the petitioner, he has put more than 12 years service under the control of second respondent and they deducted the contribution amount in salary and paid the same to the EPF Office regularly. Therefore he claims that he is eligible for grant of pension under the above scheme. In order to avail such benefits the petitioner made a representation to the 1st respondent. However the 1st respondent returned the representation on the incorrect premises that the petitioner has completed only 7 years of service and not ten years of service, and held that he is not eligible for claiming pension under the above said scheme by his letter dated 22.08.2009. Thereafter, the petitioner approached the second respondent and requested them to forward the details of the service period pertaining to him, the second respondent has also sent a letter to the 1st respondent stating that 10 D form of the petitioner was sent back by the 1st respondent earlier on the premise that the employer share was not specified. After rectifying the mistake, the second respondent resubmitted the 10 D form of the petitioner to the 1st respondent for passing appropriate orders. Despite receipt of the same, the 1st respondent refused to grant the pension to the petitioner. Therefore, he made a another representation on 27.11.2012 to the 1st respondent. Since no action is forthcoming, the present writ petition is filed.

3. Learned counsel for the petitioner submitted that though the petitioner has earlier rendered service in the Central Reserve Police and after retirement the petitioner has rendered 12 years in the 2nd respondent organization, for want of

sufficient particulars, the 1st respondent rejected the petitioner's pension proposal and the same mistake was rectifying by the 2nd respondent by forwarding correctly filled up 10D Form to the 1st respondent and for availing such benefits the petitioner made a representation on 27.11.2012. Till date that representation was not considered. Learned counsel for the petitioner further submitted that it would suffice, if this Court may issue a direction to the 1st respondent to pass appropriate orders on the petitioner's representation within a time frame as fixed by this Court.

4.Per contra, learned counsel appearing for the respondent submitted that the earlier representation of the petitioner was rejected on 22.08.2009. However till date, such rejection order was not challenged by the petitioner and without challenging the earlier rejection order, merely filing the writ petition with the above said prayer is not maintainable one and further the petitioner has rendered several years of service in the 2nd respondent but for receiving pension, the pension scheme requires 10 years of service. However if any proposal is received from the 2nd respondent, thereafter the petitioner's representation will be considered in accordance with Pension Rules.

5.This Court heard the submission made by either side learned counsel and also perused the material available on record.

6.Considering the facts and circumstances of the case, though so many averments made by the petitioner and respondents, without expressing any opinion on the factual aspects of the case, I am inclined to issue a direction to the 2nd respondent to consider the petitioner's representation if any filed him, shall forward the same along with necessary particulars/ relevant records, which would enable the 1st respondent to consider the petitioner's pension proposal in accordance with Pension Rules and pass appropriate orders thereon within a period of twelve weeks from the date of receipt of copy of this order.

7.With the above direction this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Regional PF Commissioner,
Employees Provident fund Organization,
Regional Office,
NO.37, Rayapettach High Road,
Chennai.

2.The SDB CISCO(India) Pvt. Ltd.,
4th Avenue,
Harrington Road,
Chetpet,
Chennai.

3.The Regional Office,
SDB CISCO (India) Ltd,
VVP Nagar,
Thattanchavadi,
Puducherry.

+1 CC to Mr.G. Rajan, Advocate sr 37732.

W.P.No.17754 of 2013

SSV(CO)
SP(31/12/2020)