

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 26619 OF 2013
and
M.P.No.1 of 2013

P.Shanmuga Pandian

.. Petitioner

- Vs -

1.Government of Tamilnadu
Rep. By the Additional Chief Secretary
and Secretary to Government,
Environment & Forests Department,
Secretariat, Chennai 600 009.

2.The Secretary to Government,
Finance (BPE) Department,
Secretariat,
Chennai 600 009.

3.The Tamil Nadu Pollution Control Board,
Rep. By its Member Secretary,
78, Mount Salai, Guindy,
Chennai 600 032.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified Mandamus, calling for the records on the file of the order of the 3rd respondent in Memo No.L.Dis./Per./P3/34226/09 dt. 31.12.2009 to quash the same and to issue consequential directions to the respondents to take into account half of the petitioner services from 3.7.1987 to 24.3.1996 as Driver in the Officer of the District Leprosy Officer Dindigul on daily wage basis along with regular service in Tamil Nadu Pollution Control Board from 25.03.1996 onwards for arriving at the net qualifying service for pension.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.M.Elumalai, AGP For RR1 to 2

: No appearance for R3

ORDER

It is the case of the petitioner that he joined the service as Jeep Driver in the Tamil Nadu Pollution Control Board in the year 1996 and was advanced to selection grade in the said post from 25.3.2006. It is the averment of the petitioner that prior to joining service in the Tamil Nadu Pollution Control Board, he was serving as Driver on daily wage basis from 3.7.87 to 24.3.96 in the office of the District Leprosy Officer, Dindigul, attached to Medical Services Wing in the Department of Public Health and Preventive Medicine of Government of Tamil Nadu. Thereafter, the Government of Tamil Nadu issued G.O.Ms.No.408, Finance (Pension) Department, dated 25.8.2009, stating that half of the services rendered by the employees in Non-Provincialised service on consolidated pay, honorarium and daily wages shall be taken into account as qualifying service for pension. Subsequently, thereafter the petitioner made a representation on 5.11.2009. However the said representation was received by the respondents, it was intimated that the said G.O.Ms.NO. 408/25.8.2009 is applicable only to the contract appointments made in Government Department and Local Bodies and it is not extended to Public Sector Undertakings and Statutory Boards and hence there are no possibilities to consider his request to count his services rendered on daily wage basis. Challenging the same the present petition has been filed with the above said prayer.

2.The learned counsel appearing for the petitioner did not dispute the facts but submitted that the petitioner is aged 47 years and the issue relates to calculating the previous service for the purpose of pension. It is also not disputed by the learned counsel for the petitioner that G.O. Ms. No.41 came into existence only in the year 2009, after the impugned order was passed and the amendment in Tamil Nadu Pollution Control Board Revised Service Regulations, 2010, also came into effect subsequent to the impugned order. In such a backdrop, learned counsel appearing for petitioner fairly submitted that an opportunity may be given to the petitioner to file a fresh representation in view of the subsequent development.

3. Considering the facts and circumstances of the case, though the authority passed a perfect order in the year 2009, that G.O.Ms.No. 408 is only applicable to the Government employee and not for persons in Public Sector Undertakings, no interference is warranted with the order passed by the respondents. However, in view of the subsequent development, this Court is of the view that liberty could be granted to the petitioner to workout his remedy in the manner known to law.

4. Accordingly, this writ petition is dismissed granting liberty to the petitioner to work out his remedy in a manner known to law. Consequently connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

jrs
To

1.The Additional Chief Secretary,
Secretary to Government,
Environment & Forests Department,
Secretariat, Chennai 600 009.

2.The Secretary to Government,
Finance (BPE) Department,
Secretariat,
Chennai 600 009.

3.The Member Secretary,
Tamil Nadu Pollution Control Board,
78, Mount Salai, Guindy,
Chennai 600 032.

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A.SK(09/10/2020)

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