



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.8776 of 2020

and

W.M.P. (MD) No.8062 of 2020

K.Arivazhagan

... Petitioner

Vs.

- 1) The State of Tamil Nadu,
Rep. By its Secretary to Government,
Municipal Administration and Water Supply
Department, Secretariat,
Chennai- 600 009
- 2) The Commissioner of Administration,
11th Floor, Urban Administrative Building,
(Opp to CIBA Building),
75, Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai 600 028
- 3) The Commissioner,
Karur Municipality,
Karur.
- 4) The Pension Sanctioning Authority,
Karur Municipality,
Karur.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representation dated 04.03.2020 of the petitioner and to consider the petitioner in the G.P.F. Account No.772 from October 2009 and to declare that the petitioner is entitled for the pensionary benefits under the Tamil Nadu Pension Rules, 1978, duly counting 50% of petitioner's service on NMR daily wage rate from 05.05.1988 to 22.03.2006 along with regular service from 23.03.2006 to the date of retirement, within a time limit to be fixed by this Court.



For Petitioner: Mr.A.Thirumurthy

For RR 1 & 2 : Mr.M.Karuppasamy,
Government Advocate

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O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the respondents to consider the representation dated 04.03.2002 of the petitioner and to consider the petitioner in the G.P.F. Account No.772 from October 2009 and to declare that the petitioner is entitled for the pensionary benefits under the Tamil Nadu Pension Rules, 1978, duly counting 50% of petitioner's service on NMR daily wage rate from 05.05.1988 to 22.03.2006 along with regular service from 23.03.2006 to the date of retirement, within a time limit to be fixed by this Court.

2. The petitioner had been working at the third respondent office. His grievance is that, since he has joined in the service in the year 1988 temporarily and subsequently he had been regularised, he has been wrongly included in the New Pension Scheme in the year 2006 instead of Old Pension Scheme.

3. However, according to the learned counsel appearing for the petitioner, the petitioner is entitled to get benefit under the Old Pension Scheme by taking into account the 50% of the service, he rendered already, as entered in the Service Register and in this regard, the petitioner has given a representation on 04.03.2020 to the third respondent, which have to be forwarded to 1st and 2nd respondents for appropriate action and so far, it seems to not been considered by the third respondent. Therefore, the petitioner is before this Court with the aforesaid prayer.

4. Heard Mr.M.Karuppasamy, learned Government Advocate, who accepts notice for all the respondents, who raised an objection stating that since the representation has only been given to the third respondent/ Commissioner, Karur Municipality but the necessary Authorities to decide the said issue raised by the petitioner are the 1st and 2nd respondents to whom, no such representation has been given. Therefore, if any representation is given to the first and second respondents that would be considered by them on merits and in accordance with law after getting necessary remarks from the third respondent Municipality, who is the employer of the petitioner.



5. The said submission made by the learned counsel appearing for both the parties are taken on record.

6. Since the petitioner seeks only indulgence of this Court to give a direction to the respondents to consider the representation dated 04.03.2020 with regard to his plea, that he is entitled to get the benefits under the Old Pension Scheme instead of New Pension Scheme, this Court is inclined to dispose of the writ petition with the following direction:

" that the petitioner shall forward a copy of the representation, dated 04.03.2020 addressed to the third respondent, to the first and second respondents along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the first and second respondents shall consider the said representation on merits and in accordance with law, of course after hearing or getting the remarks from the third respondent Municipality as to the eligibility and entitlement of the petitioner to claim such a benefit under the Old Pension Scheme and accordingly, take a decision thereon on merits and in accordance with law within a period of three months thereafter."

7. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P. (MD) No.8062 of 2020 is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

- 1) The Secretary to Government,
Municipal Administration and Water Supply
Department, Secretariat,
Chennai- 600 009
- 2) The Commissioner of Administration,
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- 3) The Commissioner,
Karur Municipality,
Karur.
- 4) The Pension Sanctioning Authority,
Karur Municipality,
Karur.

Order made in
W.P. (MD) No.8776 of 2020
Dated:06.08.2020

KG (CO)
TR(04.09.2020) 4P 5C