



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2020

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THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P (MD) No.19189 of 2014
and
M.P. (MD) .Nos.1 and 2 of 2014

1.N.Narayannan Nair (Died)

2.S.N.Jegadabai

3.N.Sathishkumar

4.J.Sheeja Kumari

.. Petitioners

(P2 to P4 are substituted for the deceased
sole petitioner vide Court order dated
05.02.2018 in W.M.P. (MD) .No.2002/18)

Vs.

1.The Engineer in Chief (WRO) and
Chief Engineer (General)
Public Works Department,
Chepauk,
Chennai-600 005.

2.The Superintending Engineer, PWD/WRO
Thamirabarani Basin Circle,
Tirunelveli.

3.The Executive Engineer PWD/WRO
Kodayar Basin Division,
Nagercoil,
Kanyakumari District.

4.The Assistant Executive Engineer PWD/WRO
Pattanamkal Sub Division,
Kuzhithurai,
Kanyakumari District.

5.The Accounts Officer/Assistant
Accountant General (A&E)
No.261, Annasalai,
Chennai.



6.The State of Tamil Nadu,
Rep by its Principal Secretary to Government
Public Works Department,
Fort St.George,
Chennai-600 009.

.. Respondents

(R6 is impleaded vide order dated
27.01.2020 made in W.M.P.(MD).No.1286/2020)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the fourth respondent herein in his proceedings vide letter No.6B/1769/2014, dated 16.10.2014 and quash the same and consequently, direct the respondents 1 to 4 to disburse the pension and all other benefits by counting the 50% of the service rendered by the petitioner in the capacity of NMR as non provisionalised service between 06.11.1967 to 02.02.1981 along with the regularized service rendered by him in the light of G.O.Ms.No.408, dated 25.08.2009 on the basis of his representation dated 22.09.2014 before the respondents herein within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.B.Brijesh Kishore
For R1 to R4 & R6	: Mr.S.Dhayalan Government Advocate
For R5	: Mr.J.Gunasekaran Standing Counsel

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the fourth respondent in his proceedings vide letter No.6B/1769/2014, dated 16.10.2014 and to quash the same and consequently, to direct the respondents 1 to 4 to disburse the pension and all other benefits by counting the 50% of the service rendered by the petitioner in the capacity of NMR as non provisionalised service between 06.11.1967 to 02.02.1981 along with the regularized service rendered by him, in the light of G.O.Ms.No.408, dated 25.08.2009 on the basis of his representation dated 22.09.2014 before the respondents.

2.The case of the petitioners is that the deceased writ petitioner viz., Narayanan Nair, has joined in service as NMR before the third respondent, on 06.11.1967. All Muster Roll Workers, who have completed 10 years of service between 02.04.1977 to 31.12.1978 are brought into regular establishment with effect from 03.02.1981, as per G.O.Ms.No.140/PWD, dated 03.02.1981. As per the said G.O., the third respondent has issued the proceedings dated 28.09.1981 stating that the service of the said Narayanan Nair was regularized.



The said Narayanan Nair worked under the control of the fourth respondent under regular establishment without unblemished service and retired from service on 30.04.2005.

3.The learned counsel for the petitioners submitted that the previous service of the said Narayanan Nair in the non provisionalized service upto 06.11.1967 to 02.02.1981, was not included for the purpose of calculating the pension and hence prayed for inclusion of the service from 06.11.1967 to 02.02.1981 for the purpose of calculating the pension.

4.The learned Government Advocate appearing for the respondents would submit that the respondents had rejected the claim of the petitioners on the ground that in the Service Register, the said Narayanan Nair's earlier service was not recorded by the impugned order, which is under challenge.

5.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

6.Perusal of record shows that regularisation order has been passed by the Executive Engineer, PWD, Kanyakumari Division, Nagercoil, in his proceedings No.E2.9699/81 dated 25.09.1981, by which, three nominal muster roll workers, who have completed 10 years of services between 02.04.1977 and 31.12.1976 were brought into regular establishment with effect from 03.02.1981 as per G.O.Ms.No.140, P.W.D. Dated 03.02.1981 and as per the instructions issued by the Chief Engineer (General), Madras in the Endorsement No.AI.II.4/87623/80-6 dated 24.02.1981. So, it has been specifically stated that the persons, who completed 10 years of service between 02.04.1977 and 31.12.1976 were considered for regularisation and only on completion of 10 years of service, regularisation orders have been passed. Therefore, now the respondents cannot say that there is no entry in the petitioner's service register. It is an admitted fact that on completion of 10 years of service, the petitioner has been regularised and therefore, as per G.O.No.408, Finance (Pension) Department, dated 25.08.2009 where, it has been specifically stated that persons those who have joined service as non provincialised service, consolidated pay, honorarium, daily wages after 01.01.1961 and whose service has been regularised on or before 01.04.2003 are eligible to get pensionary benefits by taking into consideration of 50% of the non provincialised service along with regularised service rendered by them. Here admittedly, the petitioner has joined on 06.11.1967 and his services were regularised with effect from 03.02.1981 and therefore, I am inclined to interfere with the impugned order.

7.Accordingly, this Writ petition stands allowed and the impugned order dated 16.10.2014 is quashed and directing the respondents to disburse the pension and all other benefits by the service rendered by the said Narayanan Nair



before regularized in Muster Roll Workers from 06.11.1967 to 02.02.1981 to the petitioners herein. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Engineer in Chief (WRO) and
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Chennai-600 005.
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- 6.The Principal Secretary to Government
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ORDER MADE IN
W.P (MD) No.19189 of 2014
and
M.P. (MD) .Nos.1 and 2 of 2014
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VB(21.02.2020) 4P 7C