



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.5520 of 2014

and

M.P(MD)No.1 of 2014

S.Bharathan

.. Petitioner

Vs.

1.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Road, Guindy, Chennai - 32.

2.District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Kappalur, Madurai.

3.Engineer in Chief (Water Resources Organisation)
and Chief Engineer (General),
Public Works Department,
Chennai - 600 005.

[R3 is impleaded vide order dated
18.07.2019 made in W.M.P(MD)No.
15304 of 2017 in WP(MD)No.5520/14].

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents to sanction the pension to the petitioner taking into consideration the petitioner's total service of 38 years 3 months from the date of petitioner's joining in the Public Works Department on 30.04.1968 till the petitioner's retirement in the Respondents Pollution Control Board on 31.07.2006 and accordingly to issue the revised pension order stating the quantum of pension payable to the petitioner and to pay the consequential arrears arising thereon within the stipulated period prescribed by this Court and pass such further or other orders.

For Petitioner : Mr.K.Muthumalai

For Respondent No.3 : Mr.S.Dhayalan,
Government Advocate.

For Respondents 1 & 2 : No appearance

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus to direct the respondents 1 to 2 to sanction the pension to the petitioner taking into consideration the petitioner's total service of 38 years 3 months from the date of petitioner's joining in the Public Works Department on 30.04.1968 till the petitioner's retirement in the Respondents Pollution Control Board on 31.07.2006 and accordingly to issue the revised pension order stating the quantum of pension payable to the petitioner and to pay the



consequential arrears arising thereon.

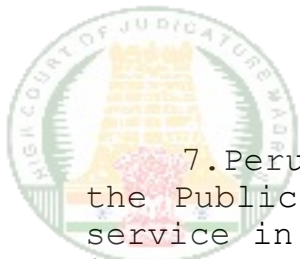
2.The case of the petitioner is that the petitioner joined the service in the Public Works Department as Work Assistant on 30.04.1968 and he was ousted from service in the afternoon of 23.09.1987, when he was working as Assistant Engineer. Thereafter, he was appointed as Junior Environment Engineer in December, 1987 and he was retired from service on 31.07.2006, on attaining the age of superannuation. Since his service in the Public Works Department was not taken into consideration for pension, he has made various representations to the respondents 1 and 2, which evoked no response. The Government issued G.O.Ms.No.312, Public Works (F1) Department, dated 22.10.2008, stating that on repayment of proportionate pensionary liability covering the period of his employment in the Public Works Department, the petitioner is entitled to get the pension for full length of qualifying service. In this regard, the Accountant General (A&E), Tamil Nadu, Chennai - 18, sent a communication, dated Nil, intimating that the petitioner has to remit Rs.60,220/- as pension liability, which was received by the 3rd respondent, Chief Engineer, PWD, Chepauk, Madras - 5, on 31.03.2009 and the 3rd respondent also sent a copy of the same, vide letter, dated 02.04.2009, to the 1st respondent, for taking further action, marking a copy to the petitioner. Since, the Pollution Control Board has not issued any orders informing the head under which, the amount has to be remitted, the petitioner has come up with the present writ petition.

3.In the counter filed on the side of the respondents 1 and 2, it is stated that the petitioner was an employee from 1987 to 31.07.2006 under the respondents 1 and 2. The Government issued G.O.Ms.No.312, Public Works (F1) Department, dated 22.10.2008, fixing the proportionate pensionary liability to the tune of Rs.60,220/- and the petitioner was asked to remit the same in installments. Now he has come forward to remit the same, after nearly a period of 10 years, which is not proper.

4.The learned counsel for the petitioner submitted that though the Government passed G.O.(Ms).No.312, dated 22.10.2008, fixing the repayment of proportionate pensionary liability, the 1st respondent Pollution Control Board, did not issue the remittance challan, for which, the petitioner has also made representation on 03.09.2009, through proper channel.

5.There is no representation on behalf of the respondents 1 and 2. Even in the earlier hearings, i.e., on 05.12.2019 and 11.12.2019, also, there was no representation on behalf of them.

6.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the 3rd respondent and perused the materials available on record.



7.Perusal of records shows that the petitioner has worked in the Public Works Department from 30.04.1968 and he was ousted from service in the afternoon of 23.09.1987 and thereafter, he was worked in the Pollution Control Board from December, 1987 and he was retired from service 31.07.2006, on attaining the age of superannuation. The Government issued G.O.Ms.No.312, Public Works (F1) Department, dated 22.10.2008, stating that on repayment of proportionate pensionary liability covering the period of his employment in the Public Works Department, the petitioner is entitled to get the pension for full length of qualifying service. In this regard, the Accountant General (A&E), Tamil Nadu, Chennai - 18, sent a communication, dated Nil, intimating that the petitioner has to remit Rs.60,220/- as pension liability, which was received by the 3rd respondent, Chief Engineer, PWD, Chepauk, Madras - 5, on 31.03.2009 and the 3rd respondent also sent a copy of the same, vide letter, dated 02.04.2009, to the 1st respondent, for taking further action, marking a copy to the petitioner. The petitioner has also approached the Pollution Control Board, for issuance of remittance challan, through representation, dated 03.09.2009.

8.Perusal of the counter would show that there was no action taken by the Pollution Control Board for issuing the remittance challan to the petitioner or any direction given to the petitioner to pay the proportionate pensionary liability. Even if it is assumed that the petitioner had claimed for issuing a remittance challan nearly after a period of six years, it is an admitted fact that he had given representation even on 03.09.2009, which evoked no response. There is no record to show that the 1st respondent made any demand to the petitioner as directed by the 3rd respondent, dated 02.04.2009. Therefore, the petitioner is directed to send a demand draft for a sum of Rs.60,220/- towards proportionate pensionary liability covering the period of his employment in the Public Works Department, to the 1st respondent forthwith and upon receipt of the same, the 1st respondent is directed to appropriate the said amount in the concerned head, so as to enable the petitioner to get pensionary benefits and forward the same to the Accountant General (A&E), Tamil Nadu, Chennai - 18. The said exercise shall be completed within a period of four weeks from the date of receipt of demand draft from the petitioner.

9.With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

- 1.The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Mount Road, Guindy,
Chennai - 32.

- 2.The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Kappalur, Madurai.

- 3.The Engineer in Chief
(Water Resources Organisation)
and Chief Engineer (General),
Public Works Department,
Chennai - 600 005.

Copy to: The Accountant General (A&E),
Tamilnadu, Chennai.

+1 CC to M/s.K.MUTHUMALAI, Advocate (SR-1111[F] dated 09/01/2020)

ORDER MADE IN
W.P (MD) No.5520 of 2014
08.01.2020

SMA/13/02/2020/4P/6C