



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4481 of 2021
and WMP.No.5109 of 2021

1. P. Mathiarasu
2. S.Palanisamy
3. P.Mariappan

... Petitioners

-vs-

1. The Director of Town Panchayat
8th floor Santhome High Road,
MRC Nagar, Raja Annamalai Puram,
Chennai 600 028.

2. The Executive Officer,
Aravakurchi Town Panchayat
Karur District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to issue suitable instructions to the 2nd respondent enabling him to bring the petitioners under Old Pension Scheme from the date of his eligibility in terms of the judgment passed by Division Bench dated 10.06.2019 in W.A.No.701 of 2019 and as per para 45(ii) of Full Bench Judgment reported in 2019 (6) CTC page 705 and consequentially to direct the 2nd respondent to grant all eligible benefits including suitable interest to the petitioner.

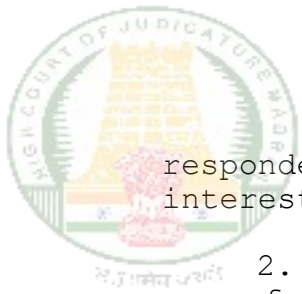
For Petitioners: Mr.P.L.Thirumoorthy

For Respondents: Mr.J.Pothiraj

Special Government Pleader

ORDER

This writ petition has been filed, seeking a direction to the first respondent to issue suitable instructions to the 2nd respondent enabling him to bring the petitioners under Old Pension Scheme from the date of his eligibility in terms of the judgment passed by Division Bench dated 10.06.2019 in W.A.No.701 of 2019 and as per para 45(ii) of Full Bench Judgment reported in 2019 (6) CTC page 705 and consequentially to direct the 2nd



respondent to grant all eligible benefits including suitable interest to the petitioner.

2. These petitioners have earlier approached this Court by way of Writ Petition in W.P.No.40736 of 2016, with a prayer to bring them under regular time scale, which was allowed by this Court on 06.06.2018 and aggrieved by the said order, a Writ Appeal was preferred before the Division Bench by the Government and on 10.06.2019 in W.A.No.701 of 2019 the Division Bench has observed as follows:-

"11. However, from a perusal of the proceedings of the 2nd respondent, it is seen that the writ petitioners were appointed on a consolidated pay on 02.11.1998 and thereafter by order of this Court they were regularised with effect from 17.11.2001, which is much prior to the introduction of the New Pension Scheme. The writ petitioners are entitled to the Old Pension Scheme since they have been brought under the Regular Time Scale as early as in the year 2001. In fact, by proceedings in Na.Ka.No.477/2015 dated 16.10.2015, the 2nd respondent has fixed the revised pay scale for the 1st petitioner with effect from 17.11.2001.

In view of the above there is no merits in the writ appeal. The Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous petition is also closed."

3. When the petitioners have been brought under the regular time scale and that it has been observed that they are entitled to old pension scheme, the petitioners cannot file one more Writ Petition seeking for extension of the benefits of old pension scheme and the same is impermissible in the eye of law. The intention of the petitioners appears that they want a direction to the respondents to implement the orders of the Division Bench and this Court is not inclined to issue such a blanket direction to the Respondents. A reading of Paragraph No.11 of the order in W.A.No.701 of 2019 makes it very clear that the petitioner were initially appointed on consolidated pay and thereafter, they were brought under regular time scale as early as in 2001, entitling them to get the benefits of old pension scheme. The non-compliance of the order is a clear violation of orders of this Court and amounts to contempt. Hence the remedy lies to the petitioners to approach the Division Bench, by way of initiation of contempt proceedings and petitioners cannot seek the relief of implementation of the order, by filing a separate Writ Petition, as the cause of action is a continuous one and Section 20 of the Contempt of Courts Act cannot abridge the powers of the Constitution of India and the powers under Article 215 of



the Constitution are supreme than the powers enumerated under the Contempt of Courts Act.

4. Writ petition is disposed of with the above observation. No costs. Consequently connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

dpq
To

1. The Director of Town Panchayat
8th floor Santhome High Road,
MRC Nagar, Raja Annamalai Puram,
Chennai 600 028.

2. The Executive Officer,
Aravakurchi Town Panchayat
Karur District.

+1 CC to Mr. P. I. Thirumoorthy, Advocate Sr 16835.
+1 CC to The Government Pleader, Sr 17343.

W.P.No.4481 of 2021
and WMP.No.5109 of 2021

RLD(CO)
LS(14/07/2021)