IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.15769 of 2016

M.Velayutham ...Petitioner

Vs

1.The Government of Tamil Nadu,
Rep.by its Additional Chief Secretary,
Finance Department,
Fort St.George, Chennai-600 009.

2.The Government of Tamil Nadu,
Rep.by its Additional Chief Secretary,
Highways and Minor Ports Department,
Fort St.George, Chennai-600 009.

3.Tamil Nadu State Construction
Corporation Ltd.,
Rep.by its Managing Director,
206/N, Jawaharlal Nehru Salai,
Jai Nagar, Arumbakkam, Chennai-600 106.

4.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Government of Tamil Nadu
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to count the entire service rendered by the petitioner in the third respondent Corporation as well as the service rendered in the fourth respondent department and consequently settle all the terminal benefits due to the petitioner like gratuity, pensionary benefits under the Old Pension Scheme, encashment of 240 days earned leave and encashment of 90 days of unearned leave on private affairs, on the basis of his late drawn salary on the date of his superannuation, along with accrued interest thereon within a time frame.

For Petitioner : Mr.K.M.Ramesh

For Respondents: Mr.K.Tippu Sulthan,
Government Advocate

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein had originally joined in the Tamil Nadu State Construction Corporation Limited. Subsequently, about 136 staff of the said corporation were deputed to various Government Departments. The petitioner herein is one among the said staff, who was deputed to the HR&CE department. The grievance of the petitioner is that his service rendered in the third respondent corporation was not taken into account by the fourth respondent department and therefore, they are entitled to all the terminal benefits for the services rendered by them in both the third respondent corporation as well as the fourth respondent department comprehensively. The petitioner's representation in this regard was not considered, which prompted the petitioner to file the present writ petition.

3. The respondents one and two herein have filed a counter affidavit dated 09.02.2018 in which, it has been categorically stated in paragraph Nos.11 and 19 that the request of the petitioner for counting the service rendered by him under the third respondent corporation along with the services rendered under the fourth respondent department, is under consideration of the Government and necessary orders will be passed. The relevant portion of the counter reads as follows:

> "11. It is submitted that proposals have been received by the government for the settlement of terminal benefits a) to the staff of the corporation who are retired at the Corporation itself and b) the staff of Corporation who were absorbed in other government organisations/departments as per the G.O.Ms.No.27 finance (BPE) Department dated 24.01.2007 and this subject was also approved by the Board of the Corporation. Now it is under the examination of the government.
>
> 19. It is submitted that proposals have been received by the government for the settlement of terminal benefits a) to the staff of Corporation who are retired at Corporation itself and b) the

staff of corporation who were absorbed in other government organaisations/departments as per the G.O.Ms.No.27 Finance (BPE) Department dated 24.01.2007 and the Tamil Nadu State Construction Corporation has requested the government to issue required order to the concerned Government departments/ orgnaisations stating that while retiring the staff of Tamil Nadu State Construction Corporation who are absorbed/deputed in the respective Government departments/organaisations the service rendered in Tamil Nadu State Construction Corporation may also be included in the calculation of retirement benefit such as Gratuity, Encashment and Earned Leave salary etc. Further this subject was also approved by the Board of Tamil Nadu State Construction Corporation vide its 123rd Board Meeting held on 28.01.2016. Now it is under the examination of the government. After due process the necessary order will be issued by the government to settle the retirement benefits."

4. A reading of the aforesaid stand taken by the first and second respondents indicates that the Government intends to take positive steps in favour of the petitioner herein. In this regard, if the respondents 1 and 2 are directed to pass necessary orders with regards to the grievance of the petitioner, within a stipulated time, instead of stepping into the shoes of the respondents and passing the order on the prayer sought for in the present writ petition, the ends of justice could be secured.

5. In the light of the above observations, there shall be a direction to the respondents 1 and 2 herein to pass final orders in connection with the stand taken by them in paragraph Nos.11 and 19 of the counter affidavit filed in the present writ petition, if not already taken, within a period of three months from the date of receipt a copy of this order.

6. The present writ petition stands allowed, accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Additional Chief Secretary,
The Government of Tamil Nadu,
Finance Department,
Fort St.George, Chennai-600 009.

2.The Additional Chief Secretary,
The Government of Tamil Nadu,
Highways and Minor Ports Department,
Fort St.George, Chennai-600 009.

3.The Managing Director,
Tamil Nadu State Construction
Corporation Ltd.,
206/N, Jawaharlal Nehru Salai,
Jai Nagar, Arumbakkam, Chennai-600 106.

4.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Government of Tamil Nadu
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.

+1cc to Mr.K.M.Ramesh, Advocate Sr.34299

W.P.No.15769 of 2016

pm[co]
srg 18/08/2021