

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.34703 of 2015

1.K.Elumalai

2.K.Nellathambi

3.N.Sekar

... Petitioners

Vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai - 9.

2.The Director of Town Panchayat,
Kuralagam,
Chennai - 108.

3.The Executive Officer,
Thirukazhukundram Town Panchayat,
Kancheepuram District. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to consider and pass orders on the petitioner's representation dated 18.09.2015 regarding cancellation of membership in the newly introduced Contribution Pension Scheme and to bring all the petitioners under Old Pension Scheme and for the refund of subscription made by the petitioners towards New Contributory Pension Scheme in the light of the judgment of the Division Bench in W.P.No.2110 of 2014 dated 19.03.2014 reported in 2014 (2) C.T.C. Page 777 within a time limit to be prescribed by the Hon'ble High Court.

For Petitioners: Mr.A.Baskaran

For Respondents: Mr.R.S.Selvam for R1 and R2
Government Advocate
Mr.M.Elumalai for R3
Additional Government Pleader

O R D E R

The petitioners have filed this writ petition seeking direction to the second respondent to pass orders on their representation dated 18.09.2015 regarding cancellation of membership in the newly introduced Contribution Pension Scheme and to bring all of them under Old Pension Scheme and for refund of the subscription made by the petitioners towards New Contributory Pension Scheme.

2. When the matter was taken up for consideration, the learned counsels appearing on either side jointly submitted that the issue involved in this writ petition is squarely covered by the Hon'ble Full Bench Judgment of this Court dated 03.12.2019 passed in W.A.Nos.158 of 2016 etc., batch of cases.

3. In view of the above, this Court is of the opinion that it is useful to extract hereunder the operative portion of the Judgment dated 03.12.2019 passed in W.A.Nos.158 of 2016 etc., batch of cases:

"45. In the light of the above, we answer the reference as follows:-

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after

01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

4.Hence, this Court directs the respondents to pass appropriate orders on the petitioners representation dated 18.09.2015, in line with the Hon'ble Full Bench Judgment of this Court dated 03.12.2019 passed in W.A.Nos.158 of 2016 etc., batch of cases, as expeditiously as possible. Accordingly, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai - 9.
- 2.The Director of Town Panchayat,
Kuralagam,
Chennai - 108.
- 3.The Executive Officer,
Thirukazhukundram Town Panchayat,
Kancheepuram District.

+1cc to Mr.A.Baskaran, Advocate Sr.14693
+1cc to the Government pleader Sr.15547

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srg 31/03/2021