

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.27305 of 2014

V.Palaniammal

... Petitioner

Vs

1.The State of Tamil Nadu rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai - 600 009.

2.The Chief Engineer (General) &
Engineer in Chief,
Chepauk, Chennai - 600 005.

3.The Executive Engineer,
Public Works Department,
Mechanical Sub-Division,
Chennai - 600 005.

4.The Accounts General,
(Pension), DMS, Chennai - 9.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to forthwith grant all terminal benefits including pension and family pension as applicable favoring the petitioner and to consequently consider the claim of the petitioner's son for compassionate ground appointment in any one of the eligible post on the basis of the representation dated 20.09.2010 which was followed by a detailed reminder representation dated 12.04.2011.

For Petitioner : Mr.L.Chandrakumar

For R1 to R3 : Mr.R.S.Selvan, Government Advocate

For R4 : Mr.V.Murali

ORDER

The petitioner has come up with this Writ Petition to direct the respondents to forthwith grant all terminal benefits including pension and family pension as applicable to the

petitioner and consequently, consider the claim of the petitioner's son for compassionate ground appointment in any one of the eligible posts on the basis of the representation dated 20.09.2010 and reminder dated 12.04.2011.

2. According to the petitioner, her husband by name G.Viswanathan, died in harness on 01.08.2001, while he was working as casual labourer in Public Works Department. His service was regularized in the scale of Rs.2550-3200 with effect from 01.07.1995 at Sl.No.12 in Annexure-XII of G.O.Ms.No.334 PWD dated 19.10.2007, but the respondents did not settle any of the terminal benefits and family pension to the petitioner till date. Upon publication of the aforesaid G.O, relating to regularisation, the petitioner made a detailed representation to the respondent authorities on 19.03.2008, requesting to consider her son for compassionate appointment and extend the terminal benefits and family pension to her, which was not considered. Therefore, she made another representation dated 20.09.2010, which was followed by a reminder dated 12.04.2011 to the respondent authorities, reiterating the claims of terminal benefits, family pension and compassionate ground appointment of her son. Finding no response on the same, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, inter alia stating that the husband of the petitioner, who expired on 01.08.2001, was working as NMR from 26.05.1985 in the Public Works Department; though his service was regularized in G.O.Ms.No.334 PWD dated 19.10.2007, he is not eligible for any benefits, since the implementation of the G.O. was effected from the date of issuance of the G.O. and it was clearly stated in the said Government Order that the financial benefits will be reckoned from the date of relaxation, whereas the petitioner's husband died before the date of relaxation; and hence, the petitioner is not eligible for any terminal benefits.

4. However, today, when the matter was taken up for consideration, the learned Government Advocate appearing for the respondents 1 to 3 produced a copy of G.O.(Ms.)No.281, Public Works Department, Dated 11.11.2020, by which the Government decided to amend the G.O.(Ms.)No.334, Public Works Department, dated 19.10.2007, so as to extend the benefit of regularisation to all the similarly placed persons, whose services have been regularised in the said G.O., with effect from the date of completion of 10 years of their daily wages services; and accordingly, amended the same, the relevant passage of which reads as follows:

AMENDMENT:

For the existing paragraph in item (ii) under paragraph 3 of G.O.Ms.No.334 Public Works Department, Dated 19.10.2007, the following item shall be substituted:-

"(ii). Where relaxation of eligibility criteria is involved, the services shall be regularised with effect from the date of completion of 10 years, i.e., with effect from the dates mentioned in column 5 of the Annexures to this G.O., with notional fixation of pay from that date and with monetary benefit from the date of issue of G.O."

2.The Government direct that this amendment shall be deemed to have come into force from the date of issue of the G.O. i.e., 19.10.2007.

3.The Government also hereby point out and reiterate that pension (or) counting of prior service for pension will not be applicable for all those whose dates of regularisation fall on or after 01.04.2003, as per the provisions of the Tamil Nadu Pension Rules, 1978 and as per the orders of the Hon'ble Full Bench of the High Court of Madras, dated 03.12.2019 in WA.No.158 of 2016 and batches of cases."

Thus, the learned Government Advocate submitted that the respondent authorities would consider the claim of the petitioner in the light of the amended G.O., within a reasonable time to be stipulated by this Court.

5.Taking note of the admitted fact that the name of the petitioner's husband was found in the regularisation order and in view of the subsequent development as stated above by the learned Government Advocate appearing for the respondents 1 to 3, this Court directs the respondents to consider the representation of the petitioner dated 12.04.2011 in respect of grant of family pension and terminal benefits due to her husband, in the light of G.O.Ms.No.334 Public Works Department, dated 19.10.2007 as well the amended G.O.(Ms.)No.281 Public Works Department, dated 11.11.2020 and pass appropriate orders, within a period of eight (8) weeks from the date of receipt of a copy of the order.

6.With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

dsa
To

1.The Secretary to Government,
Public Works Department,
Fort St. George, Chennai - 600 009.

2.The Chief Engineer (General) &
Engineer in Chief,
Chepauk, Chennai - 600 005.

3.The Executive Engineer,
Public Works Department,
Mechanical Sub-Division,
Chennai - 600 005.

4.The Accounts General,
(Pension), DMS, Chennai - 9.

+lcc to Mr.L.Chandrakumar, Advocate Sr.10777

+lcc to the Government Pleader Sr.11111

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