



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.27666 of 2014
and MP.No.1 of 2014

V.Mangammal

... Petitioner

Vs

1. The Director,
Local Fund Audit Department,
Kuralagam, 4th floor, Chennai - 108.

2. The Assistant Director,
Municipal Pension,
Local Fund Audit Department,
Kuralagam, 4th floor, Chennai - 108.

3. The Commissioner,
Vellore Municipality, Vellore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records and quash the pension payment order dated 23.11.2012 in Pay Order No.23980/M passed by the second respondent and direct the respondents to pay the pensionary benefits of Mr.M.Venkatasamy by also considering his service of 17 years and 2 months as daily wages employee and consolidated scale and pass such further or other orders as are deemed fit and thus render justice.

For Petitioner : Mr.D.Baskar

For R1 & R2 : Mr.P.Chinnadurai, AGP

For R3 : Mr.J.Ramesh, AGP

ORDER

Heard both sides and perused the materials placed before this Court.

2.According to the petitioner, her husband by name Venkatasamy joined in the office of the third respondent on daily wages as Cart Driver for supply of water in Noon Meal



Centre. He was placed on a consolidated pay from 01.10.1999 and was further placed in time scale of pay of Rs.2550-3200 with effect from 01.10.2000. On reaching the age of superannuation, he retired from service on 30.04.2008. However, he was not granted pension stating that his service particulars in respect of the period from 01.07.1983 to 31.12.1998 were not reflected in the service book. Subsequently, the third respondent by communication dated 02.07.1999, clarified the service particulars of the petitioner's husband and recommended for early disposal of his pensionary benefits. In the mean while, he died on 18.01.2012. On 24.07.2012, the third respondent sent a communication to the first respondent along with death certificate and legal heir certificate and requested to sanction family pension in favour of the petitioner. While so, the second respondent by order dated 23.11.2012, sanctioned the family pension at Rs.3,050/- to the petitioner, by taking into account the services of her husband as 7 years 6 months and 30 days. It is the grievance of the petitioner that her husband's entire service period upto 01.10.2000 has not been taken into consideration, which comes to 17 years and 2 months. Aggrieved over the same, the petitioner has come up with this writ petition to quash the said pension payment order dated 23.11.2012 passed by the second respondent and consequently, direct the respondents to pay the pensionary benefits of her husband by considering his entire service of 17 years and 2 months as daily wages employee on consolidated scale of pay.

3. Upon notice, the respondents filed a counter affidavit, inter alia stating that if the third respondent sends pension proposal taking into account of 17 years of service, then the second respondent will take necessary action with reference to rules in this case.

4. It is seen from the documents enclosed in the typed set of papers that the third respondent sent a proposal on 31.05.2010 detailing the service particulars of the petitioner's husband for the purpose of sanction of pensionary benefits to him. According to the petitioner, the second respondent without looking into the same, has passed the order impugned herein, granting family pension at Rs.3,050/- by taking into account of services of the petitioner's husband only as 7 years 6 months and 30 days, though he had rendered the service of more than 17 years and the same is arbitrary, illegal and against the principles of law, which appears to be bona fide in the opinion of this Court.

5. In such view of the matter, having regard to the specific averment made in the counter affidavit filed by the respondents, this Court is inclined to set aside the order dated 23.11.2012 passed by the second respondent. Accordingly, the order impugned



herein is set aside and the matter is remanded back to the second respondent for passing fresh orders, on merits and in accordance with law and also in the light of the proposal dated 31.05.2010 sent by the third respondent, within a period of eight weeks from the date of receipt of a copy of this order.

6. This writ petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
Local Fund Audit Department,
Kuralagam, 4th floor, Chennai - 108.
2. The Assistant Director,
Municipal Pension,
Local Fund Audit Department,
Kuralagam, 4th floor, Chennai - 108.
3. The Commissioner,
Vellore Municipality, Vellore.

+lcc to Mr.D.Baskar, Advocate, S.R.No.17375
+lcc to the Government Pleader, S.R.No.17347

W.P.No.27666 of 2014
and MP.No.1 of 2014

PL(CO)
CB(20/07/2021)