



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.15022 of 2014

S.Sarassam

... Petitioner

vs.

1.The Secretary,
Department of Rural Development and Panchayat Raj,
Fort St. George, Chennai.

2.The Accountant General,
No.261, Anna Salai, Chennai - 600 018.

3.The Director,
Rural Development and Panchayat Raj,
Saidapet, Chennai - 600 015.

4.The District Collector,
Nagercoil, Kanyakumari District.

5.The Commissioner,
The Munchirai Panchayat Union,
Munchirai, Puthukadai Post,
Kanyakumari District.

...Respondents

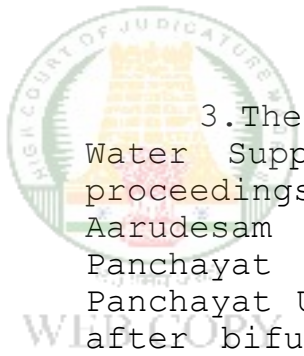
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the Respondents to grant retirement benefits and family pension with interest to the petitioner on account of the demise of her husband who retired as Water Supply Attender at Mankadu Village Panchayat, Munchirai Panchayat Union, Munchirai, Puthukadai Post, Kanyakumari District.

For Petitioner	: Mr.M.Kannan
For R-1,3 & 4	: Mr.M.Linga Durai Government Advocate
For R-2	: Mr.P.Gunasekaran

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the respondent to grant retirement benefits and family pension with interest to the petitioner.

2.Heard Mr.M.Kannan, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents 1, 3 and 4 and Mr.P.Guansekarn, learned Counsel for the second respondent.



3.The petitioner's husband, by name Ramaiyan, was appointed as Water Supply Attender in Aarudesam Town Panchayat, as per the proceedings of the Collector, dated 31.12.1964. It is admitted that Aarudesam Town Panchayat was bifurcated into Puthukadai Town Panchayat and Mangadu Village Panchayat within the Munchirrai Panchayat Union. It is also admitted that the petitioner's husband, after bifurcation, was appointed in Mangadu Panchayat within the Munchirrai Panchayat Union.

4.It is not in dispute that when petitioner's husband was working in Aarudesam Town Panchayat, his post was a pensionable post. However, as an employee of Mangadu Panchayat, the petitioner's husband was not eligible to get pension. Though the service of the petitioner's husband was regularised on 16.06.1983 after completion of ten years, after retirement the petitioner's husband was not paid pension benefits. The petitioner was making repeated representations to the District Collector. It is to be noted that the District Collector taking into consideration that the order of bifurcation was purely for administrative reasons, the service condition of the petitioner's husband ought to have been protected and therefore, there was a recommendation by the District Collector to grant pensionary benefits to the petitioner's husband. Since the first respondent did not pass any orders, the petitioner has come forward with the present Writ Petition as prayed for.

5.In the counter affidavit filed by the fourth respondent, it is stated that as on the date of regularization, the petitioner's husband was purely a village Panchayat employee of Mangadu Village Panchayat and that it is not a pensionable service. It is further stated that no Government Order for sanctioning of pensionary benefits to the village Panchayat employees is in vogue and that therefore, a request was made for passing order to award pensionary benefits to the Village Panchayat employees, who are in service in the Town Panchayat.

6.The learned Counsel appearing for the petitioner submitted that the Government has directed extension of pensionary benefits to the employees of about 25 Town Panchayats, which were downgraded to Village Panchayat during 1999 by G.O.Ms.No.182, (Rural Development and Town Panchayats), dated 11.10.2007. Though it is admitted that such retirement benefit was extended to the employees, who were originally employed in Town Panchayat, but subsequently posted in Village Panchayat, after the bifurcation in 1999, it is contended by the respondents that the said Government Order is not applicable, as similar benefit was not extended to Aarudesam Town Panchayat. Alternatively it is also contended by the respondents that the service of the petitioner's husband was regularised long after bifurcation and therefore, the petitioner's request cannot be considered for pensionary benefits.



7.This Court considered the submission of the learned Counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents.

8.When it is admitted that the petitioner's husband was employed in a pensionable post before bifurcation of Aarudesam Town Panchayat and the bifurcation was purely on administrative grounds, the Government should consider the grievance of the petitioner, as the Government is expected to protect the service conditions of all the employees, if they are likely to be affected by administrative or executive orders passed by the Government. The petitioner's husband was admittedly an employee in a pensionable post, when he was employed by Aarudesam Town Panchayat. His service condition cannot be altered, merely because, the Town Panchayat was degraded subsequently. If the Government has considered favourably to protect the service condition of others, it cannot refuse to consider the plea of petitioner. Hence, this Court is of the view that the respondents should consider the representation of the petitioner.

9.Accordingly, the Writ Petition is disposed of with a direction to the petitioner to submit a fresh representation to the respondents 1 and 2 to pass appropriate orders in the light of recommendations of the District Collector earlier within a period of four weeks from the date of receipt of a copy of this order. On such representation being submitted by the petitioner, the first respondent is directed to consider the said representation of the petitioner in the light of recommendations of the District Collector, dated 07.06.2002 and 11.08.2009 and pass appropriate orders directing the Director of Local Fund Audit to pass an order within a period of four weeks thereafter. The Director of Local Fund Audit or the second respondent may pass appropriate orders within a period of 4 weeks from the date of recommendations from the Government in this regard. No costs.

Sd/-

Assistant Registrar (AS)

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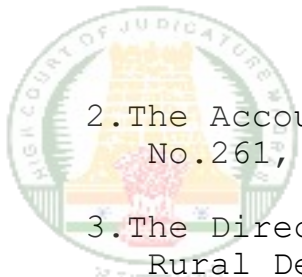
/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

To

1.The Secretary,
Department of Rural Development and Panchayat Raj,
Fort St. George, Chennai.



2.The Accountant General,
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3.The Director,
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5.The Commissioner,
The Munchirai Panchayat Union,
Munchirai, Puthukadai Post,
Kanyakumari District.

+1 CC to M/s.SPL. GP (SR-29751[F] dated 21/09/2021)

+1 CC to M/s.M.KANNAN, Advocate (SR-29686[F] dated 21/09/2021)

W.P. (MD) No.15022 of 2014
20.09.2021

NSN(CO)
KB(27.09.2021) 4P 8C