



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.6244 of 2017

A.Manoharan

... Petitioner

Vs.

- 1.The State of Tamil Nadu
represented by its Secretary
Department of Municipal and
Water Supply Department
Fort St. George,
Chennai-600 009.
- 2.The Director
Local Fund Audit Department
4th Floor,
Kuralagam
Chennai 600 108.
- 3.The Director of Town Panchayat,
Kuralagam Buildings,
Chennai.
- 4.The Assistant Director,
Local Fund Audit Department
Theni, Theni District.
- 5.The Commissioner
Cumbum Municipality
Cumbum
Theni District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 5th respondent herein to submit the pension proposal to the 4th respondent and disburse forthwith the pensionary benefits due to the petitioner viz., the Tamil Nadu Government Employees Special Provident Fund and the General Provident Fund, Gratuity, Pension admissible to the petitioner with penal interest at the rate of 18%.

For Petitioner : Mr.Saravanakumar
for Ms.P.Kalaiyarasi Bharathi



For R1 to R4 : Mr.M.Muthugeethaiyan
Special Government Pleader
For R5 : Mr.Hema Karthikeyan

ORDER

WEB COPY This writ petition is filed for a direction to the fifth respondent to submit the pension proposal to the fourth respondent and disburse forthwith the pensionary benefits due to the petitioner viz., the Tamil Nadu Government Employees Special Provident Fund and the General Provident Fund, Gratuity, Pension admissible to the petitioner with penal interest at the rate of 18%.

2.The case of the petitioner is that he has joined as Market Watchman under the fifth respondent Municipality, as a daily wage employee and he was paid Rs.18/- vide proceedings dated 28.05.1992. Thereafter, as per G.O.Ms.No.125, dated 27.05.1999, he was identified as a consolidated employee from 24.02.2005 and his pay was fixed as Rs.2,000/- by proceedings dated 24.02.2005. After completion of the probationary period, the petitioner was brought into regular time scale of pay and his service was regularised from 24.02.2006 onwards. After regularization, the petitioner was retired from service on 30.06.2016. After the retirement, the petitioner has not received any pension. Hence, the present Writ Petition is filed.

3.The learned counsel appearing for the petitioner submitted that the petitioner has entered into service in the year 1992 and his service was regularised in the year 2006 and he was retired from service in the year 2016. Though the petitioner is entitled for pension, till date he has not received. Hence, he prays for allowing the present writ petition.

4.The learned Special Government Pleader appearing for the respondents submitted that on verification of the Service Register of the petitioner by the second respondent, it was found that the petitioner was brought into regular time scale of pay with effect from 24.02.2005. As per G.O.Ms.No.259, Finance(Pension), dated 06.08.2003, pension is eligible only to those who are appointed prior to 01.04.2003. The learned Special Government Pleader further submitted that as per the records available in the office of the second respondent, the petitioner is not eligible for pension and he is only eligible for Contributory Pension Scheme(CPS) because his appointment was regularised with effect from 24.02.2005. Hence, he prays for dismissal of the present writ petition.

5.Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 4 and the learned Standing Counsel appearing for the fifth respondent and perused the materials available on record.



6. On a perusal of the counter affidavit reveals that the petitioner was brought into regular time scale of pay with effect from 24.02.2005 and as per G.O.Ms.No.259, Finance(Pension), dated 06.08.2003, pension is eligible only to those who are appointed prior to 01.04.2003. In the present case, the petitioner's service was regularised in the year 2006 and hence, he is entitled for Contributory Pension Scheme. The respondents are ready to provide Contributory Pension to the petitioner. However, the petitioner has not received the same and claiming old pension, which is not admissible one. Accordingly, this Writ Petition is dismissed. No costs. However, the respondents 1 to 4 are directed to settle the terminal benefits, as per CPF Scheme, which is applicable to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Secretary
Department of Municipal and
Water Supply Department
Fort St. George,
Chennai-600 009.
- 2.The Director
Local Fund Audit Department
4th Floor,
Kuralagam
Chennai 600 108.
- 3.The Director of Town Panchayat,
Kuralagam Buildings,
Chennai.
- 4.The Assistant Director,
Local Fund Audit Department
Theni, Theni District.

+1 CC to M/s.SPL GP (SR-10870[F] dated 12/03/2021)

W.P. (MD)No.6244 of 2017

11.03.2021



WEB COPY