



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

WP (MD) No.6258 of 2016

Rajagopal

... Petitioner

Vs.

1.The Commissioner,
Department of Fisheries,
Teynampet, Chennai.

2.The Joint Director,
Fisheries Department,
Nagapattinam Region,
Nagapattinam.

3.The Assistant Director,
Fisheries Department, (Sea Development),
Thanjavur.

4.The Assistant Director,
Internal Fisheries Development, (Sea Development),
Thiruvarur.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents herein to compute half of the petitioner service rendered on temporary basis from 1967 onwards till 1992 as per G.O.Ms.No.408 dated 25.08.2008 for payment of the petitioner pension along with arrears thereon within the time stipulated by this Court.

For Petitioner

: Mr.J.Vijayaraja

For Respondents

: Mr.A.K.Manikkam

Government Advocate

ORDER

This writ petition is filed for issuance of Writ of Mandamus directing the respondents to compute half of the petitioner's service rendered on temporary basis from 1967 onwards till 1992 as per G.O.Ms.No.408 dated 25.08.2008.

2. Heard the learned counsel for the petitioner and Mr.A.K.Manikkam, learned Government Advocate appearing for the respondents.

3. It is the case of the petitioner that he was appointed as Mazdoor in the Fisheries Department from 1967 to 1980 on temporary basis. It is further stated that from 1981 to 1985, he worked as a Fisherman and thereafter, he was appointed as Fisherman through



employment exchange during 1985. It is the petitioner's case that he retired from service on attaining superannuation on 31.01.2006. The petitioner now claims that his service period during 1967 to 1985 on temporary basis should be counted for the purpose of retirement benefits.

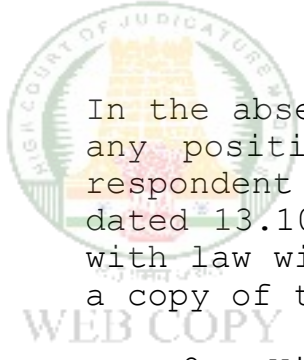
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4. Referring to the Government Orders, wherein, similarly placed persons are given retirement benefits by adding 50% of the service rendered by them on temporary basis, the learned counsel for the petitioner would submit that the petitioner is also entitled to that relief. The learned counsel for the petitioner produced before this Court, a Memo dated 27.12.1980, wherein, the third respondent selected the petitioner and one another Fisherman on daily wages. The order of appointing the petitioner on temporary basis was not for any definite period. Further, it is stated that the appointment will be terminated without any notice in case, the petitioner does not take any efforts for collection of seeds. It is stated that the petitioner is engaged along with another as Fisherman with a condition that the petitioner and the employees are liable to be terminated from service, in case, the collection of seed is reduced.

5. The petitioner has produced before this Court two memos indicating that the petitioner is engaged on temporary basis on various dates in the years 1981 and 1982. Again the petitioner was given appointment on 09.01.1985 stating that the petitioner is selected and appointed as Fisherman on temporary basis. The contention of the petitioner that he was continuously employed in service from 1967 or from an earlier date is not proved by any document filed by him before this Court.

6. The petitioner submitted a representation under Right to Information Act and a definite reply was given by the Assistant Director of Fisheries, to the effect that the petitioner was appointed on temporary basis without any records and that there is no record available in the Office, where the petitioner was employed between 1967 and 1985. A positive reply is given by the respondents that there is no Attendance Register for the petitioner for the period from 1967 to 1985.

7. Having regard to the nature of the reply given to the petitioner, this Court is of the view that the petitioner has not satisfied this Court that he was engaged temporarily on regular basis for the period from 1967 to 1985. Since the respondents have no service records of the petitioner for the period from 1967 to 1985, the respondents cannot be given further direction. The petitioner has not produced before this Court enough materials to show that he was engaged on regular basis in any post from 1967. The request of the petitioner cannot be considered. The petitioner himself admits that he retired from service on 31.01.2006. However, the petitioner came forward with this writ petition only in the year 2014. He has not produced some documents to prove his contentions.



In the absence of sufficient materials, this Court is unable to give any positive direction to the respondents. However, the first respondent is directed to consider the petitioner's representation dated 13.10.2011 and pass appropriate order on merits in accordance with law within a period of twelve weeks from the date of receipt of a copy of this Order.

8. With the above direction, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner,
Department of Fisheries,
Teynampet, Chennai.

2.The Joint Director,
Fisheries Department,
Nagapattinam Region,
Nagapattinam.

3.The Assistant Director,
Fisheries Department, (Sea Development),
Thanjavur.

4.The Assistant Director,
Internal Fisheries Development, (Sea Development),
Thiruvarur.

+1 CC to M/s.J.VIJAYARAJA, Advocate (SR-32754[F] dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-32863[F] dated 27/10/2021)

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SS (CO)

KB(22.11.2021) 3P 7C
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