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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4347 of 2022

R.Ramachandran

.. Petitioner

Vs

1.The Registrar General,
High Court,
Madras - 600 104.

2.The Subordinate Judge,
Sub Court,
Attur - 636 102.

3.The Accountant General (A&E),
361, Anna Salai,
Teynampet, Chennai-600 018.

4.The Divisional Engineer,
National Highways Department,
Coimbatore-18.

5.The Divisional Engineer,
National Highways Department,
Salem-4.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari to call for the records in D.No.476/2021 dated 13.07.2021 on the file of the second respondent and quash the same.

For the Petitioner : M/s.B.Raji

For the Respondents : Mr.Kaithamalai Kumaran
for respondent Nos.1 and 2
: Mr.M.T.Arunan
for respondent Nos.4 and 5



ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The writ petition has been filed to seek the benefits of G.O.No.408, Finance (Pension) Department, dated 25.08.2009, wherein certain directions were given for counting the half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wage basis after 01.01.1969 and absorbed in regular service before 01.04.2003.

2. Learned counsel for the petitioner submitted that before joining the service in the Judicial Department in the year 1979, the petitioner had worked in the National Highways Department from 30.09.1972 to 15.10.1975. Thus, a period of almost three years service with the National Highways Department rendered by the petitioner should have been added for pension benefits. The prayer aforesaid was not accepted, thus, the writ petition has been filed.

3. We have considered the submissions made by learned counsel for the petitioner and find that the Government Order dated 25.08.2009 is not applicable to the facts of this case. The translated copy of G.O.No.408 has been produced. Paragraph 2 of the aforesaid Government Order is quoted for ready reference:

"2. Accordingly, orders are hereby issued by the Government subject to the following conditions that as applicable for all those Government servants in Non-Provincialised service, Consolidated Pay, Honorarium and Daily Wages basis and absorbed in regular service before 01.04.2003, before absorbing them in regular service, half of the service rendered by the Government servants in Non-Provincialised service, Consolidated Pay, Honorarium and Daily Wages basis on or after 01.01.1961, shall be counted for pensionary benefits along with regular service, subject to the following conditions:-

- (i) The service period rendered in Non-Provincialised service, Consolidated Pay, Honorarium and Daily Wages basis shall be a full-time job in a Government Department.
- (ii) The service rendered shall be on Consolidated Pay, Honorarium or Daily Wages paid on monthly basis and subsequently absorbed in regular service under the State Government.



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(iii) The service rendered in Non-Provincialised service, Consolidated Pay, Honorarium or Daily Wages basis shall be followed by absorption in regular service before 01.04.2003 without a break."

4. The benefits under the Government Order dated 25.08.2009 are available only to those who are absorbed in regular service before 01.04.2003. The case on hand is not the absorption of the petitioner in the Judicial Department in the year 1979. Rather, it was a fresh appointment after the petitioner served in the National Highways Department upto the year 1975. It is not only that, there was a break of four years in between, otherwise also, it was not the case of absorption in the Judicial Department service, so as to extend the benefit of G.O.No.408, dated 25.08.2009.

5. Thus, we do not find any ground to allow the prayer made by the petitioner. Rather, we find that the writ petition is devoid of merits and, accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

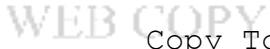
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Sub Assistant Registrar

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To:

- 1.The Registrar General,
High Court,
Madras - 600 104.
- 2.The Subordinate Judge,
Sub Court,
Attur - 636 102.
- 3.The Accountant General (A&E),
361, Anna Salai,
Teynampet, Chennai-600 018.
- 4.The Divisional Engineer,
National Highways Department,
Coimbatore-18.



Copy To

+1cc to Mr.S.Sasikala, Advocate SR.No.13252
+2cc to Mr.M.T.Arunan, Advocate SR.No.13282
+1cc to the Government Pleader SR.No.13779

+1cc to Mr.Kaithamalai Kumaran, Advocate SR.No.14339(10/03/2022)

NMI (CO)
GN (04/03/2022)