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W.P.No.5369 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.5369 of 2020
and WMP.No.6305 of 2020

R.Dhanalakshmi
W/o.Subash Chandra Bose

..Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Social Welfare and Nutritious Meal Programme Department,
Fort St.George,
Chennai.
 2. The Commissioner,
Social Welfare Department,
Panagal Maligai, Chennai - 18.
 3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
 4. The Accountant General of Tamil Nadu,
No.361, Anna Salai,
Teynampet, Chennai.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for Writ of Mandamus, directing the 1st respondent to regularise the



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period of service of the petitioner from 30.11.2010 to 22.12.2011 and further direct the respondents to sanction and disburse the pension payable along with all other terminal benefits due to the petitioner in a time bound manner.

For Petitioner : Mr. A.Mohamed Ismail
For Respondents : Mr.M.Tippu Sulthan,
Government Advocate [R1 to R3]
Mr.C.K.Syed Shaffi [R4]

ORDER

The prayer sought for herein is for a writ of mandamus to direct the 1st respondent to regularize the period of service of the petitioner from 30.11.2010 to 22.12.2011 and further direct the respondents to sanction and disburse the pension payable along with all other terminal benefits due to the petitioner in a time bound manner.

2. The petitioner was working as a Child Welfare Programme Officer at Thiruvannamalai District and she retired on superannuation on 30.06.2017.



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3. Though she retired on 30.06.2017, her retirement benefits and pensionary benefits have not been disbursed to the petitioner, therefore, she has given a representation to the respondents in 2018, 2019 and lastly on 13.11.2019. Despite these representations, since nothing was forthcoming from the respondents, she has approached this Court by filing the present writ petition.

4. Heard Mr.A.Mohamed Ismail, learned counsel appearing for the petitioner, who would submit that during the period between 30.11.2010 to 22.12.2011, the petitioner was placed under suspension by the third respondent/District Collector and subsequently the suspension order was stayed or set aside by this Court and thereafter on the basis of the request, the said period was not regularized by the respondents and the proposal was pending with the second respondent and in the meanwhile, the petitioner has attained superannuation on 30.06.2017, she retired from service, however, the petitioner's pensionary and retirement benefits so far has not been disbursed. Therefore, the learned counsel appearing for the petitioner seeks indulgence of this Court to issue a suitable direction to the respondents.



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5. However, Mr.Tippu Sultan, learned Government Advocate appearing for the respondents 1 to 3 has relied upon the following averments made in the counter affidavit filed by the respondents:

“The petitioner herein retired on superannuation on 30.06.2017. The petitioner herein gave representations on 20.09.2016 and 28.03.2018 to regularise the period of suspension from 30.11.2010 to 22.12.2011. The period of suspension of the petitioner has been regularized in G.O(Ms).No.156, Social Welfare and Nutritious Meal Programme (SW1) Department, dated 27.11.2020. The suspension period of the petitioner from 30.11.2010 to 22.12.2011 (388 days) has been regularized as per Rule54-B-1(1), (5) & (7) of Tamil Nadu Government Fundamental Rules as follows:

<i>Suspension Period</i>	<i>No. of days</i>	<i>Nature of leave</i>
<i>From 30.11.2010 to 27.07.2011</i>	<i>240 days</i>	<i>Earned leave</i>
<i>From 28.07.2011 to 22.12.2011</i>	<i>148 days</i>	<i>Unearned leave on private affairs</i>
<i>Total</i>	<i>388 days</i>	

5. I respectfully submit that necessary Pensionary benefits like DCRG, Commutation Value of Pension, GPF final withdrawal Leave encashment, Special Provident Fund will be settled to the petitioner within a period of one month."

6. Relying upon these averments, Mr.Tippu Sulthan, learned



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Government Advocate appearing for the respondents 1 to 3 would submit that, the said period, where the petitioner was placed under suspension since has been regularized by issuance of G.O.(Ms)No.156, Social Welfare and Nutritious Meal Programme (SW1) Department, dated 27.11.2020 as stated in the said averments either on earned leave or on unearned leave on private affairs for 388 days, the pensionary benefits and retirement benefits like DCRG, Commutation value of pension, GPF final withdrawal Leave encashment, special provident fund would be settled in due course to the petitioner.

7. Having considered the said submission made by both sides especially the stand taken by the respondents as averred in the counter affidavit, this Court feels that, a direction can be given to the respondents to disburse the retirement benefits as well as the pensionary benefits within a time frame.

8. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That there shall be a direction to the respondents to disburse the retirement and pensionary benefits payable to the petitioner with all



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arrears within a period of four(4) weeks from the date of receipt of a copy of this order.

- ◆ With regard to the decision taken by the respondents to regularize the suspension period as earned leave and unearned leave on private affairs i.e., totally 388 days is concerned, it is open to the petitioner to agitate the same in the manner known to law, if she got any grievance over the same.

With these directions, this writ petition is disposed of accordingly.

No costs. Connected miscellaneous petition is closed.

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Index : Yes/No
Internet: Yes/No
mp

To



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