



W.P.No.26575 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26575 of 2016

Mrs.S.Lalitha

... Petitioner

Vs.

1.The Corporation of Chennai

Represented by its Commissioner,
Rippoin Building,
Chennai – 600 003.

2.Zonal Officer,

Zone VIII
Corporation of Chennai,
Thiru.Vi.Ka Park,
Shenoy Nagar, Chennai – 600 024.

3.The Secretary to Government

Municipal Administration
Water Supply Department
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Ma.Aa.8. Na.Ka.No.C3/225/2016 dated 24.02.2016 and quash the same and consequentially direct the 2nd respondent to settle the



W.P.No.26575 of 2016

pension CPS, gratuity from the date of retirement to the petitioner with 18% interest.

For Petitioner	: Mrs.A.Dhanalakshmi
For R1 & R2	: Mr.G.T.Subramaniam Standing Counsel for Greater Chennai Corporation
For R3	: Mr.K.Surendran Additional Government Pleader

ORDER

The order dated 24.02.2016, rejecting the claim of the writ petitioner to count 50% of the temporary services rendered by him for the purpose of calculation of qualifying service and pay pension to him is under challenge in the present writ petition.

2. The petitioner was employed as Sweeper in Chennai Corporation and retired from service on 31.08.2014. He was initially appointed on daily wage basis on 15.10.1997 and the services of the writ petitioner was regularised with effect from 26.05.2008, pursuant to the order of the



W.P.No.26575 of 2016

Government issued in G.O.Ms.No.65 dated 21.04.2008. Since the services of the petitioner was regularised with effect from 26.05.2008, he is falling under New Pension Scheme namely Contributory Pension Scheme. The persons, who were appointed / regularised after 01.04.2003 are eligible to avail the pensionary benefits under the Contributory Pension Scheme. Once the eligibility of the employees falls under the New Contributory Pension Scheme, question of applying the provision of the Tamil Nadu Pension Rules does not arise at all.

3. In view of the fact that the petitioner is a member of the new pension scheme, the counting of 50% of the services rendered as daily wage employee would not arise at all. Rule 11(4) or the benefit of G.O.Ms.No.408 dated 25.08.2009 are to be granted in respect of the employees, who were appointed prior to 01.04.2003 or their services are regularised prior to the said cut-off date of 01.04.2003. However, in the present case, the petitioner was regularised with effect from 26.05.2008 and therefore, he is entitled for the benefit under the Contributory Pension Scheme.



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W.P.No.26575 of 2016



W.P.No.26575 of 2016

4. In this regard, the learned Standing Counsel appearing on behalf of the respondent / Corporation made a submission that during the pendency of the writ petition, the benefit of Contributory Pension Scheme was settled in favour of the writ petitioner. The petitioner received the pension as per the Contributory Pension Scheme to the tune of Rs.1,88,998/- on 01.09.2017 bearing Cheque No.964909 dated 28.08.2017.

5. In view of the fact that the benefit under Contributory Pension Scheme has already been settled in favour of the writ petitioner, no further consideration is required. As far as the claim of the writ petitioner to get the benefits under the old pension scheme are concerned, the petitioner is not eligible, since his services were regularised with effect from 26.05.2008 after the cut-off date of 01.03.2003.

6. Accordingly, the Writ Petition stands dismissed. No costs.

14.10.2022

Jeni
Index : Yes
Speaking order



W.P.No.26575 of 2016

WEB COPY

To

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W.P.No.26575 of 2016

S.M.SUBRAMANIAM, J.

Jeni

W.P.No.26575 of 2016

14.10.2022