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W.P.No.1488 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1488 of 2017

Smt. Uma

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by the Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St. George, Chennai – 600 009.

2.Corporation of Greater Chennai,
Represented by its Commissioner,
Part Town, Chennai – 600 003.

3.Assistant Executive Engineer,
Corporation of Greater Chennai,
Division-19, Zone-7, Ambattur,
Chennai – 600 053.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders issued by the 3rd Respondent bearing Ma.A7/Na.Ka.No.S2/7038/16 dated 24.11.2016, 09.12.2016 and 19.12.2016 and quash the said orders and consequently direct the Respondents to sanction family pension to the Petitioner with arrears of pension.



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For Petitioner	: Mr.K.M.Ramesh
For R1	: Mrs.R.L.Karthika Government Advocate
For R2 & R3	: Mr.G.T.Subramaniam Standing Counsel [For Greater Chennai Corporation]

ORDER

The order of rejection, rejecting the claim of the writ petitioner to regularise the services and grant of family pension of her deceased husband based on the Government order issued in G.O.Ms.No.71, Municipal Administration and Water Supply Department, dated 05.05.1998 is under challenge in the present writ petition.

2. The petitioner states that her husband Late Thiru. G.Bagaiya joined the services of the Ambattur Municipality as Sanitary Worker on 13.11.1998. He was initially appointed on consolidated pay salary of Rs.1000/- per month. The Government issued G.O.Ms.No.71 dated 05.05.1998, granting the benefit of regularisation in favour of the consolidated pay salary employee, who were serving in the Municipal Corporation during the relevant point of time.



3. However, the benefit of the said Government order issued in G.O.Ms.No.71 was not granted in favour of the deceased husband of the writ petitioner, when he was working as consolidated pay salary employee. But the services of the deceased husband of the writ petitioner was regularised by the Government order in G.O.Ms.No.21, Municipal Administration and Water Supply Department dated 23.02.2006 with effect from the date of passing of the Government order.

4. Thus, it is not in dispute that the services of the deceased husband of the writ petitioner was regularised with effect from 23.02.2006 and he was brought under regular time scale of pay. Unfortunately, the husband of the writ petitioner died on 16.10.2007, while he was in service. The petitioner submitted an application to provide appointment on compassionate grounds and the respondents have considered the case and the petitioner was appointed on compassionate grounds and as of now, she is working as an employee of the Corporation of Greater Chennai, since the erstwhile Ambattur Municipality was merged with the Chennai Corporation.



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5. The grievance of the writ petitioner is that the family pension has not been paid to her, since her deceased husband had not completed 10 years of minimum qualifying services for grant of family pension.

6. The learned counsel for the petitioner made a submission that if at all the benefit of G.O.Ms.No.71 dated 05.05.1998 was extended in favour of the deceased employee during the relevant point of time and if his services were regularised at that point of time on completion of three years of consolidated pay salary services, then the petitioner would be eligible for family pension as of now.

7. Such an event factually not occurred. The fact remains that the husband of the writ petitioner continued as consolidated pay salary employee. His services were regularised only with effect from 23.02.2006 i.e., after the cut-off date of 01.04.2003 and therefore, the deceased employee would be eligible for the New Pension Scheme i.e. Contributory Pension Scheme. If at all his services could have been regularised in the year 1998 or 2001, he would be receiving the benefits under the Old Pension Rules, is hypothetical event, which did not occurred and therefore, this Court cannot consider such



relief, when the fact remains that the services of the deceased employee was regularised with effect from 23.02.2006 and he was brought under the New Pension Scheme i.e. Contributory Pension Scheme. The petitioner, who is the spouse of the deceased employee, is entitled to get the benefits only under the Contributory Pension Scheme and not under the Tamil Nadu Pension Rules, 1978.

8. That apart, the petitioner was already appointed on compassionate grounds. She had already received the terminal and pensionary benefits under the New Pension Scheme namely the Contributory Pension Scheme. Therefore, now this Court cannot issue any direction to regularise the services of the deceased employee with retrospective effect, so as to bring the said deceased employee under the Old Pension Rules for the purpose of grant of family pension and such considerations are impermissible, since the services of the deceased employee was regularised and he was brought under the regular establishment after implementation of the New Pension Scheme with effect from 01.04.2003.



9. Thus, the Writ Petition is devoid of merits and stands dismissed. No costs.

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Index : Yes
Speaking order

To

- 1.The Secretary to Government,
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- 2.The Commissioner,
Corporation of Greater Chennai,
Part Town, Chennai – 600 003.
- 3.The Assistant Executive Engineer,
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S.M.SUBRAMANIAM, J.

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