



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11302 of 2020 and
W.M.P.(MD)No.9895 of 2020

K.Surendra Babu

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Public Works Department,
St.George Fort, Chennai – 600 009.
2. The Engineer in Chief Water Resources
Organisation and Chief Engineer (General),
Public Works Department,
Chepauk, Chennai – 600 005.
3. The Superintending Engineer,
Public Works Department,
Water Resource Organization,
Thamirabarani Basin Circle, Tirunelveli.
4. The Executive Engineer,
Public Works Department,
Water Resource Organization,
Kodayar Basin Division,
Nagercoil, Kanyakumari District.
5. The Assistant Executive Engineer,
Public Works Department,
Water Resource Organization,
Kodayar Basin Sub-Division,
Cheruppalloor – 629 161,
Kanyakumari District.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 2 and 3 to consider the petitioner representation dated 16.01.2020 and to sanction the service benefits and other monetary benefits and to grant all retirement benefits with interest and to pay the pension as per orders made by the 1st respondent in G.O.(Ms)No.235 Public Works(C2) Department dated 30.11.2017.

For Petitioner : Mr.M.Saravanakumar

For Respondents: Mr.R.Suresh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner was granted the benefit of regularisation as Irrigation Assistant vide G.O.(Ms).No.334 Public Works (C2) Department dated 19.10.2007. In the annexure to the said Government Order, the petitioner is figuring at serial No.372. It can be seen therefrom that his entry into service has been mentioned as 06.11.1978 and that



ten years were completed on 01.01.1989. The petitioner and others filed W.P.Nos.1286 of 2009 and 502 of 2010 seeking regularisation of their services from the date of completion of ten years of Casual Labour service. The writ petitions were dismissed. Aggrieved by the same, they filed W.A.Nos.168 and 169 of 2012. The Hon'ble Division Bench vide order dated 08.08.2014 allowed the writ appeals and directed the department to notionally fix their pay retrospectively with effect from the date of completion of ten years service as NMRs with monetary benefits from the date of G.O.(Ms).No. 334 Public Works (C2) Department dated 19.10.2007. Questioning the said order, SLP was filed before the Hon'ble Supreme Court and the same was dismissed. Thereafter, in compliance of the order of the Hon'ble Division Bench, G.O. (Ms)No.235 Public Works (C2) Department dated 30.11.2017 was also issued. The petitioner reached the age of superannuation on 31.03.2018. However, he has not been paid pensionary and other benefits. That led to the filing of this writ petition.



3. The respondents have filed counter affidavit. The learned Additional Government Pleader took me through its contents. It is contended by the respondents that since it has already been declared that the petitioner will be entitled to monetary benefits only with effect from 19.10.2007, he cannot seek any pensionary benefits by counting his service with effect from 1989.

4. I carefully considered the rival contentions and went through the materials on record.

5. It is true that the Hon'ble Division Bench had stated that the appellants will be entitled to monetary benefits with effect from 19.10.2007.

6. The question raised in this writ petition can be answered with reference to paragraph No.14 of the order passed by the Hon'ble Division Bench. Paragraph No.14 of the order of the Hon'ble Division Bench is as follows:-

“ As rightly contended by the learned counsel appearing for the appellants, what is



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sought for is only a notional fixation of pay retrospectively on completion of 10 years of their service without any monetary benefit, so that they would get their entire service period counted for the purpose of service benefits including the monetary benefits. ”

7. If the stand of the respondents is accepted, it would frustrate the order of the Hon'ble Division Bench. While the appellants were entitled to claim pay and other monetary benefits only with effect from 19.10.2007, their services will have to be counted from 01.01.1989. The stand taken by the respondents is rejected and the respondents are directed to disburse the petitioner's pensionary and other benefits by reckoning his service with effect from 01.01.1989. This disbursement will be made within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

16.11.2022

Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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