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W.P.(MD)No.18097 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.18097 of 2019

B.Ananthakrishnan

... Petitioner

vs.

- 1.The Principal Secretary to Government,
Municipal Administration and Water
Supply Department,
Secretariat, Chennai-600 009.
- 2.The Director of Town Panchayat,
Urban Administrative Building,
M.R.C.Nagar, R.A.Puram,
Chennai-600 028.
- 3.The Director of Local Fund Audit Department,
Integrated Finance Offices Complex,
Back Side of Veterinary Hospital,
Nandanam, Chennai-600 035.



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4.The Assistant Director of Town Panchayat,
Nagercoil Region,
Collectorate Complex,
Nagercoil-629 009.

5.The Executive Officer,
Kanyakumari Special Grade Town Panchayat,
Kanyakumari-629 702,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first respondent, ie., the Principal Secretary to Government, Municipal Administration and Water Supply Department, Chennai, to pass appropriate orders on the petitioner's representation, dated 08.07.2019, regarding sending pension proposals to the Director of Local Fund Audit, Chennai, following similar Government Orders issued in G.O.No.259, Municipal Administration and Water Supply Department, dated 17.06.2016, [G.O.No.139](#), Municipal Administration and Water Supply Department, dated 07.04.2017 and G.O.No.364, Municipal Administration and Water Supply Department, dated 14.09.2017, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

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



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ORDER

This writ petition is filed for issuance of a writ of Mandamus, to direct the first respondent to pass appropriate orders on the petitioner's representation, dated 08.07.2019. In the representation the petitioner is seeking to send pension proposals to the Director of Local Fund Audit, Chennai, following similar Government Orders issued in G.O.No.259, Municipal Administration and Water Supply Department, dated 17.06.2016, G.O.Ms.No.139, Municipal Administration and Water Supply Department, dated 07.04.2017 and G.O.No.364, Municipal Administration and Water Supply Department, dated 14.09.2017, within a specified time frame that may be fixed by this Court.

2. The petitioner was originally appointed as Night Watchman in Kanyakumari Special Grade Town Panchayat and was retired on 30.06.2017. The petitioner was employed through employment exchange as full-time Watchman under contingency from 20.06.1990 to 22.06.2006. The petitioner was absorbed



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as Night Watchman in the regular time scale of pay with the effect from 23.06.2006 as per G.O.(Perm) No.158, Municipal Administration and Water Supply Department, dated 29.10.2015. However, notional benefit was granted with the effect from 23.06.2006. Since, the petitioner has served as full time office Watchman under contingency from 20.06.1990 to 22.06.2006 and thereafter absorbed in the regular time scale of pay from 23.06.2006 to 30.06.2017, the petitioner is claiming to take 50% of the service rendered from 20.06.1990 to 22.06.2006 as per Rule 11(4) of the Tamil Nadu Pension Rules, 1978.

3. The respondents refuted the claim of the petitioner by stating that the petitioner was appointed as Watchman from 20.06.1990 till 22.06.2006, under contingency category. Subsequently, the petitioner was absorbed in the regular service through G.O.(Perm) No.158, Municipal Administration and Water Supply Department, dated 29.10.2015, with the effect from 23.06.2006 as a special case.



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Since the petitioner was regularized from 23.06.2006 onwards, the petitioner is not entitled to take the period which was served prior to 23.06.2006. Therefore, the respondents prayed to dismiss the writ petition.

4. Heard Mr.S.Visvalingam, learned Counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents and perused the records placed before this Court.

5. It is an admitted that the petitioner was regularized from 23.06.2006. If a person is regularized after 01.04.2003, they are not entitled to any pensionary benefits as well as they are not entitled to take 50% of the past service as held by the Honourable Full Bench of this Court in Government of Tamil Nadu and others VS R. Kaliyamoorthy reported in 2019 (6) CTC 705 and (2020) 2 MLJ 369. In the present case, since the petitioner was regularized after the cut-off date, the petitioner is not entitled to claim any pensionary benefits by invoking old pension



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scheme. Therefore, this Court is not inclined to entertain this writ petition.

Hence the writ petition is dismissed. No costs.

Index : Yes / No

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Internet : Yes

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