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W.P.(MD)No.10361 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.10361 of 2014

N.Gunasekaran

... Petitioner

vs.

The Labour Welfare Officer,
Social Security Scheme,
Madurai District,
Madurai

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent's order in Na.Ka.No.326/14, dated 28.04.2014 and to quash the same and consequently, to direct the respondent to sanction pension under the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994, to the petitioner.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : M/s.D.Farjana Ghoushia
Special Government Pleader



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ORDER

This writ petition is filed for issuance of writ of Certiorarified Mandamus, to quash the respondent's order, dated 28.04.2014 and consequently, to direct the respondent to sanction pension under the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994, to the petitioner.

2.The petitioner is a manual worker involved in construction works from his tender age. Now, the petitioner had attained retirement and he is not able to work as a full-fledged construction worker. The Government has formulated a scheme to grant pension to such workers. The petitioner has registered his name with the respondent in Registration No.05736 and continuously renewed the same. The Government has issued G.O.Ms.No.36, Labour and Employment (I-2) Department, dated 28.02.2011. The purpose of issuance of this G.O. is to clear the ambiguities that is prevailing in the scheme. The contention of the petitioner is that as per G.O.Ms.No.36, Labour and Employment (I-2) Department, dated 28.02.2011, every registered manual worker of Construction Workers Welfare



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Board and Unorganized Welfare Board who have completed 60 years of age is eligible for pension. Since the Government has not prescribed any conditions, the rejection order passed by the respondent without any reason is illegal and not sustainable. Hence, the petitioner prays to allow this writ petition.

3.The respondent has filed a counter affidavit stating that as per Clause 6 of Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994, the registration should be renewed once in every years by the worker. If the worker fails to renew his registration, the grace time is granted until the end of the half year. If he fails to renew within the grace time, the worker will be given another chance and renewal will be in a condition that during the non-renewal period, the beneficiary cannot claim any benefits under the scheme, as per the administrative instruction. The next renewal will be done on the date in which the manual worker shows up for renewal. But the renewal period of 2 years will be continued for every 2 years from the original registration. The petitioner ought to have renewed on 09.01.1998, 09.01.2000, 09.01.2002, 09.01.2004, 09.01.2006,



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09.01.2008 and 09.01.2010. The petitioner has renewed his membership on 02.11.2000, 08.08.2006 and 03.07.2008, as per the entries made in his ID card. But has not renewed from 09.01.2000 to 01.11.2000, 02.11.2002 to 01.11.2004 and 02.11.2004 to 07.08.2006. Since the petitioner did not renew on the said years and not have membership for 5 continuous years, his pension application was rejected after giving a chance to the petitioner under Clause 13(2)(b) of Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme. Hence, according to the respondent, the petitioner is not entitled to. The respondent further contended that requiring 5 years of continuous membership was removed as per G.O.Ms.No.36, Labour and Employment (I-2) Department, dated 28.02.2011, but the G.O. was not given retrospective effect. Hence, the amendment made in the scheme will not be applicable to he petitioner. Hence, the respondent prays to dismiss the writ petition.

4.Heard Mr.A.Haja Mohideen, learned Counsel appearing for the petitioner and M/s.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondent.



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5. On perusing the records, it is seen that the scheme is a welfare scheme applicable to the construction workers. As per the rule of the scheme, if the renewal is not made, the construction workers ought to pay Rs.10/- for the renewal. The respondent is also bound to issue notice for cancellation. In the present case, the respondent has not send such notice. Since it is a welfare scheme, this Court is of the considered opinion that the case of the petitioner ought to be considered sympathetically. More over, the construction workers will be illiterate and they cannot be expected to renew periodically. Hence, the respondent is directed to pay the amount to the petitioner by collecting Rs.10/- for each year. The balance amount shall be paid to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

6. With the above said observation, the writ petition is allowed. No costs.

Index : Yes / No
Internet : Yes

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To

The Labour Welfare Officer,
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