



W.P.(MD)No.15314 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2022

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15314 of 2015

and

M.P.(MD)No.1 of 2015

and

W.M.P.(MD)No.3201 of 2016

G.S.Venkataraman

... Petitioner

*(Petitioner substituted, vide court order,
dated 02.03.2022 in W.M.P.(MD)No.3227 of 2022
in W.P.(MD)No.15314 of 2015)*

Vs.

1. The Government of India,
represented by its Secretary,
Department of Food and Public Distribution,
Ministry of Consumer Affairs, Food & Public
Distribution,
Krishi Bhawan,
New Delhi.
2. The Chairman,
Central Warehousing Corporation,
Corporate Office,
No.4/1, Siri Institutional Area,
August Kranti Marg.,
Hauz Khas, New Delhi – 110 016.



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3. The Managing Director,
Central Warehousing Corporation,
Corporate Office,
No.4/1, Siri Institutional Area,
August Kranti Marg.,
Hauz Khas, New Delhi – 110 016.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned circular No. CWC/I-RO-PS/Rectt./2009 dated 24.01.2013 and quash the same and consequently directing the Respondent to extend the Pension Scheme to all those employees who were on pay roll of Corporation since 01.04.1995 including the Petitioner.

For Petitioner : Mr.P.Jeganathan

For R1 : Mr.K.R.Laxman

For R2 & R3 : Mr.V.Raghavachari



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ORDER

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This Writ Petition is filed for Writ of Certiorarified Mandamus, to quash the impugned Circular, dated 24.01.2013 and consequently, directing the respondent to extend the Pension Scheme to all those employees who were on pay roll of Corporation since 01.04.1995.

2. The brief facts as stated in the affidavit is that the petitioner is a retired employee in Central Warehousing Corporation since 30.09.2010. The petitioner was working as Lower Division Clerk and retired on 30.09.2010 as storage and Inspection Officer. The Central Warehousing Corporation is a Government run unit rendering logistical service to the people of India mainly in the Agricultural sector, for which a number of employees have been contributing their true sense or functioning and development. The contribution is not only by the employees but also by their families aiding them to do their duties sincerely. Hence, the employees from top to bottom since inception of



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service have contributed their valuable efforts for the development of Corporation. The Government has introduced a Pension Scheme to all employees in all sectors to safeguard the interests of employees in post-retirement life. The scheme was introduced to protect and place the employees post retirement life in a secured and happy manner who contributed their efficient time and efforts of their life to the development and sincere functioning of the Departments. The employees who have put their efforts of 35 to 40 years of their age are now around 70 – 75 years left without any pension. The new Pension Scheme was introduced in the year 2013 with effect from 01.01.2007.

3. The contention of the petitioner is that new scheme is seriously and prejudicially affecting the rights and entitlement of those employees who contributed their services prior to that date. The Pension Scheme was introduced with effect from 01.01.2007 to all the employees, but notified after six years, vide circular, dated 24.01.2013. The petitioner submitted several representation requesting to implement the said Pension Scheme with effect from 01.04.1995 applicable to all



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the existing employees by considering the orders passed by the Government of India in their notification under Family Pension Scheme, 1971 as amended in the year 1995. The further contention of the petitioner is that in order to introduce the Pension Scheme from the date of 01.04.1995 onwards to all those employees in the Corporation, the Management themselves had taken an action and for which, an approval was obtained from the Board of Directors. The sources of funds to be met out for the expenditure was also identified/proposed by the then Financial Adviser and the case was referred seeking concurrence. But follow up action was not taken by the Management. Thereafter, the Department of Public Enterprises (DPE) issued guidelines and again thereafter, no follow up action was taken till 2009. According to the petitioner, the respondents have misled the Board of Directors and the Ministry and got approval to favour certain top Executives like the then Managing Director and the Director (Personnel) of the Central Warehousing Corporation. The Department of Public Enterprises guidelines was not granted to the petitioner. Therefore, the petitioner has filed this writ petition seeking to extend the Pension Scheme from the



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year 1985 onwards.

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4. The respondent had filed counter affidavit stating that based on the guidelines issued by the Department of Public Enterprises, the Scheme has been formulated. The appropriate authorities have formulated the scheme by taking all the relevant factors into account. The impugned Pension Scheme has been drafted as per the DPE guidelines, dated 26.11.2008 and 02.04.2009. The Pension Scheme was drafted at various times in the Administrative Ministry and the DPE and finally it was approved on 05.10.2012. The alteration of the scheme may create chaos, since it is not possible as it is a contributory scheme as stated above. In the Contributory Scheme, the employees will be contributing 5% of their basic pay plus Dearness allowance subject to the present ceiling of 30% of the Basic pay & Dearness allowance towards superannuation benefit comprising of CPF, Gratuity, Pension and Post-Retirement Medical Benefits and similarly the employer will contribute 10% on the basic salary plus Dearness allowance of the respective employees. The employer contribution rate may be reviewed from time to



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time so as to keep superannuation benefits within the ceiling rate of 30% unless revised by Central Government. The Scheme was formulated on 24.01.2013 with effect from 01.01.2007. The employees who are on the roll of the respondent Corporation will be entitled to derive the benefit under this scheme. This scheme cannot be disturbed or dislocated and cannot be implemented from 01.04.1995 and the same is already in force from 2007. Therefore, the respondent prayed to dismiss the writ petition.

5. Heard Mr.P.Jeganathan, learned Counsel appearing for the petitioner, Mr.K.R.Laxman, learned Counsel appearing for the first respondents, Mr.Raghavacharu, learned Counsel appearing for the second and third respondents and perused the records.

6. It is seen from the records that the Pension Scheme was implemented from 2007 onwards based on the “Contributed Pension Scheme”. The petitioner is seeking to implement the Pension Scheme from 1995 onwards. The Pension Scheme that was prevailing prior to 2003, was repealed in entire India. Therefore, the respondent is right in



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stating that they have implemented from 2007 onwards. Therefore, the Pension Scheme cannot be implemented to the persons who were employed prior to 2007. Moreover, the respondents have taken up the policy decision and this Court have no power to interfere in the policy decision of the Government. Therefore, this Court is not interfering in the impugned policy decision of the respondent.

7. With the above said observation, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

07.11.2022

Index : Yes / No
Internet : Yes / No
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S.SRIMATHY, J

jbr

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