



W.P.No.12500 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12500 of 2015 and
MP.No.1 of 2015

M.Ananthan

... Petitioner

Vs.

1. Employees Provident Fund Organization,
Rep. by Regional Provident Fund Commissioner-II,
(EXEM) No.37, Royapettah High Road,
Chennai 600 014
2. The Assistant Provident Fund Commissioner,
(GR-41) EPFO,
No.37, Royapettah High Road,
Chennai 600 014
3. Tamilnadu Civil Supplies Corporation,
Rep. by Chairman Cum Managing Director,
No.12, Thambusamy Road,
Kilpauk, Chennai 600 010
4. The Manager(PF),
Tamilnadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai 600 010

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the order passed by the first respondent herein dated



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08.01.2013 in TN/CHN/Exem/8427C/Reg/1/2012 and order of 2nd respondent herein dated 16.07.2013 in TN/RO/CHN/8427/10816/Gr-41/2013 quash the same further direct the third and fourth respondent herein to grant the ECPF pension to the petitioner for the service render by him between 05.07.1970 to 31.05.2004 taking into account the last drawn salary.

For Petitioner : Mr.M.Ananthan (party-in-person)

For Respondents

For R1 & 2 : Mr.T.R.Sundaram

For R3 & 4 : Mr.C.Selvaraj

ORDER

This writ petition has been filed challenging the order passed by respondents 1 and 2 dated 08.01.2013 and 16.07.2013 thereby revised the petitioner's pension from Rs.708/- to Rs.775/-.

2. Heard, the petitioner and the counsels appearing for the respondents.

3. The petitioner was initially appointed as Assistant Operator in Modern Rice Mill, Thimmavaram, Chengalpet on 05.03.1970. Thereafter, the said Ricemill was taken over by the third respondent and



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he was subsequently promoted as Operator with effect from 06.01.1978.

He was served with charge memo for his unauthorised absence from his service. Without satisfying with the explanation submitted by the petitioner, after conducting enquiry, he was terminated from service. It was challenged by way of Industrial Disputes Act in ID.No.827 of 1991 before the Labour Court, Chennai. It was allowed by the award dated 17.09.1996 and ordered to reinstate the petitioner into service with full backwages, continuity of service and other attendant benefits. It was challenged by the third respondent by way of writ petition in WP.No.16768 of 1997 before this Court. This Court by order dated 15.09.2006, set aside the award and remanded back to Labour Court for fresh disposal. It was challenged by the petitioner in writ appeal in WA.No.1393 of 2006. The Hon'ble Division Bench of this Court set aside the order passed by the Single Judge and modified the award to the effect that the petitioner is entitled to get 50 % backwages since he attained age of superannuation on 31.05.2004.



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4. In fact, the said order was not complied with and as such, the petitioner again filed contempt petition before this Court and by an order dated 23.07.2010, it was observed that both the parties agreed for a sum of Rs.7,50,000/- overall payment to be payable to the petitioner herein. It is also observed that the third and fourth respondents, after deducting any amount that was already paid, and to pay the balance amount to the petitioner within a period of four weeks. Accordingly, the petitioner received a sum of Rs.4,53,698/- towards balance overall payment as ordered by this Court on 21.09.2010.

5. Now, the grievance of the petitioner is that he approached the first respondent herein for Employees' Provident Fund Scheme pension and other benefits as per the order passed by the Hon'ble Division Bench of this Court in WA.No.1393 of 2006. However, the third respondent fixed his pension as Rs.708/- per month without taking into account of his service between 05.07.1970 to 31.05.2004. Therefore, under Paragraph 26 B of Employees' Provident Fund Scheme, 1952, the first respondent conducted enquiry. The said provision says that if any



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question arises whether an employee is entitled or required to become or continue as a member, or as regards the date from which he is so entitled or required to become a member, the same shall be referred to the Regional Provident Fund Commissioner. Accordingly, the first respondent conducted enquiry and passed order on 08.01.2013 thereby the third respondent is required to file statutory returns for the period from 01.07.1975 to 31.03.1978 and also the revised returns in Form 7 (EPS) reflecting the correct wages on which settlement has been made for the period from his date of dismissal to date of retirement. On such returns and remittances, the pension already fixed shall be audited for revision.

6. Accordingly, the third and the fourth respondents submitted revised returns along with payment. Accordingly, the second respondent revised his pension from Rs.708/- to Rs.775/- by taking into his date of joining i.e. 01.07.1975 and wages as on 15.11.1995 as Rs.1570/-. Accordingly, the arrear of Rs.20,047/- was also credited to the petitioner's account. Therefore, this Court finds no infirmity or illegality in the orders passed by respondents 1 and 2 and this writ petition is devoid of merits.



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7. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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4. The Manager(PF),
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No.12, Thambusamy Road,
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5. The Government Advocate,
Madras High Court

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