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W.P.No.8726 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03..07..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.8726 of 2022

P.Murugadoss

..... Petitioner

-Versus-

- 1.The Secretary to Government,
Municipal Administration and Water Supply
Department,
Fort St. George,
Chennai 600 009.
- 2.The Director of Town Panchayat,
M.R.C. Nagar, Chennai 600 028.
- 3.The Commissioner,
Tambaram Corporation,
Chennai 600045.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to consider and pass orders on the representation of the petitioner dated 03.02.2022 regarding cancellation of enrolment in the newly introduced Contributory Pension Scheme and to bring the petitioner under old Pension Scheme and for the refund of subscription recovered from the petitioner towards New Contributory Pension Scheme and as per Rule 11(4) of the Tamil Nadu Pension Rules as



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amended in G.O.Ms.No.41, Finance (Pension) Department, dated 09.02.2010 and in the light of the orders of the Full Bench of this Court in W.A.No.158 of 2016 dated 03.12.2019 within a time limit to be prescribed by this court. and pass orders thereof

For Petitioner : *Mr.A.Baskaran*
For Respondents : *Mr.P.Baladhandayutham,*
Spl. Government Pleader for RR1
& 2
Mr.P.Srinivas for R3

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus, directing the 1st respondent to consider the representation dated 03.02.2022 sent by the petitioner requesting to cancel his name enrolled under the newly introduced Contributory Pension Scheme and to bring the petitioner under old Pension Scheme and for the refund of subscription recovered from the petitioner towards New Contributory Pension Scheme and as per Rule 11(4) of the Tamil Nadu Pension Rules as amended in G.O.Ms.No.41, Finance (Pension) Department, dated 09.02.2010 and in the light of the orders of the Full Bench of this Court in W.A.No.158 of 2016 dated 03.12.2019 within a time limit to be prescribed by this court.

2. The case of the petitioner is that, on being sponsored by the



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Employment Exchange, he was initially appointed as a Sanitary Worker on consolidated pay at the Office of Executing Officer, Tirunindravur Town Panchayat, vide proceedings dated 31.01.2000 as per G.O.Ms.No.199, Municipal Administration and Water Supply Department, dated 05.05.1998. Later on, his services were regularized w.e.f. 23.06.2006 vide proceedings of the Executive Officer, Tirunindravur Town Panchayat, as per G.O.Ms.No.60, Rural Development and Panchayat Department, dated 23.06.2006. Thereafter, pursuant to the Government Order in G.O.Ms.No.142, Municipal Administration and Water Supply Department, dated 23.09.2015, his services were regularized retrospectively w.e.f. 21.03.2003 vide proceedings of the Executive Officer, Perungalathur Town Panchayat dated 22.01.2016. The grievance of the petitioner is that the employees whose services have been regularized prior to 01.04.2003 are entitled to old pension scheme. But, his claim was not acceded to by the respondents. Hence, the present writ petition.

3. A detailed counter has been filed by the 3rd respondent wherein it has been specifically admitted that the services of the petitioner was regularized from 21.03.2003. In para 7 of the counter it has also been stated that the case of the employees, whose services have been regularized on various dates under the respective departments were considered and the case of 1179 employees in



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the Municipal Service and 1839 employees in Municipal Corporation Services

in 20 Municipal Corporations, apart from Corporation of Chennai, were considered and clarifications have been issued on 08.03.2023 by the Additional Chief Secretary, Municipal Administration and Water Supply Department and it has been stated that the regularization of such persons appointed on consolidated pay after 30.04.1997 and till 01.04.2003 should be given benefit of eligible pension under the relevant Old Pension Scheme. It is also stated in the counter affidavit that the petitioner is entitled to regularization and time scale of pay w.e.f. 21.03.2003 and the issue will be examined and the application pension scheme will be implemented in favour of the petitioner and necessary order will be issued.

4. Heard both sides and also perused the records carefully.

5. It is not in dispute that though the services of the petitioner was initially regularized w.e.f. 23.06.2006, by virtue of G.O.Ms.No.142, Municipal Administration and Water Supply Department dated 23.09.2015, his services were regularized retrospectively w.e.f. 21.03.2003 vide proceedings of the Executive Officer, Perungalathur Town Panchayat. It has also been specifically admitted in the counter affidavit that the petitioner is entitled for regularization and time scale of pay w.e.f. 21.03.2003 and the services of those persons whose



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services were regularized w.e.f. 21.03.2003 have been brought under Old Pension Scheme. In the light of the above, this court is of the view that the petitioner should also be brought under the old pension scheme and therefore, the respondents shall consider the representation of the petitioner dated 03.02.2022 for old pension scheme and pass appropriate orders thereof within a period of one month from the date of receipt of a copy of this order.

In the result, the writ petition is disposed of with the direction as indicated above.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

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N.SATHISH KUMAR.J.,



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