



W.P.No.32568 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

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Sivagamasundari

...Petitioner

Vs

1.The Commissioner,
Villupuram Municipality,
Villupuram - 605 602.

2.The Director of Local Fund Audit,
Municipal Administration,
Kuralagam, Chennai - 600 108.

3.The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to compute and refix the family pension payable to the petitioner on account of the death of petitioner's husband on 21.08.1973 taking the date of appointment of the petitioner's husband as Public Health Peon on 21.08.1947 and further directing the respondents to pay the arrears of pension with 12% interest from 21.08.1973 till the date of payment.



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For Petitioner : Ms.Reshmi Christy
For R1 : Mr.P.Srinivas
For R2 & R3 : Mr.K.H.Ravikumar, Govt. Advocate

ORDER

The petitioner herein is the widow of one S.Ranganathan, who had died in harness on 21.08.1973. The family pension of the petitioner was reckoned based on the late employee's admission in the Local Provident Fund and accordingly, the petitioner has been receiving the same. In the present writ petition, the petitioner seeks for re-fixing the family pension payable to her from the date of her husband's appointment as a Public Health Peon in the first respondent Municipality.

2. The learned counsel for the petitioner submitted that as per the General Rules, the family pension requires to be computed from the date of regularization of services and not from the date of employee being brought under the EPF scheme.

3. Per contra, the learned Government Advocate appearing for the respondents 2 and 3 produced a copy of G.O.Ms.No.863, Rural



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Development and Local Administration Department, dated 16.06.1983 and stated that the initial period of joining of local body would be taken as a pensionable service, with effect from the date of G.O.Ms.No.863, dated 16.06.1983 and since the order specifically states that the cases of persons, who have already retired, cannot be reopened, the petitioner herein would not be entitled for revision of the family pension.

4. Through G.O.Ms.No.863, dated 16.06.1983, the Government had decided that for the purpose of sanctioning pensionary benefits to the employees of Municipal Councils and Township Committees, their services may be counted from the date of their appointment instead of the date of admission to the Provident Fund. However, Clause 6 of the same Government Order states that the order shall take effect from the date of issue of the Government Order and the cases of persons, who have already retired, cannot be reopened.

5. The claim of the petitioner for computing the pensionary services from the date of regularization of her husband's service has been sanctioned only through G.O.Ms.No.863, which was passed on



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16.06.1983. However, the Government Order also forbears cases of persons who have earlier retired from service. The purpose of such a clause, debarring the employees from seeking for pension from the date of their initial appointment, would open numerous cases of employees who had either retired from service or had died, prior to G.O.Ms.No.863 and their legal heirs have been receiving family pension.

6. The claim of the petitioner is not supported by any other Government Order or a case law entitling her to seek for pension from the date of her husband's initial appointment or from the date of his regularization of service. In the absence of any regulation entitling such a claim, I do not find any merits in the present writ petition.

7. This apart, the petitioner's husband had expired in the year 1973 and such a claim is now made in the year 2016 after about 43 years. There is no valid explanation for condoning such an inordinate delay. On this ground of laches also, the petitioner's claim cannot be sustained.



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8. Accordingly, the writ petition stands dismissed. No costs.

30.01.2023

Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order
hvk

To

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M.S.RAMESH,J.

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