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W.P.No.15162 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.15162 of 2021

V.Munisamy

... Petitioner

Vs.

1.The Regional Provident Fund Commissioner,
Employee's Provident Fund Organisation,
Regional Office,
3, Rajaji Salai, Tambaram,
Chennai - 45.

2.Regional Provident Fund Commissioner - II,
Employee's Provident Fund Organisation,
Sub-Regional Office,
No.S-1, TNHB, Phase - III,
Sathuvachari, Vellore - 632 009.

3.Assistant Provident Fund Commissioner,
Employee's Provident Fund Organisation,
Sub-Regional Office,
No.S-1, TNHB, Phase - III,
Sathuvachari, Vellore - 632 009.

4.The Area Enforcement Officer,
Employee's Provident Fund Organisation,
Sub-Regional Office,
No.S-1, TNHB, Phase - III,
Sathuvachari, Vellore - 632 009.

5.M/s.V.K.Abdul Jabbar Sahib Sons,
100 No. Mark Beedi Manufacturing Industries,



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Masuthi Street, Virudhampet,
Vellore - 632 006.

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6.V.K.Ramachandran
Beedi Licensed Contractor,
100 No. Mark Beedi Manufacturing Industries,
Anna Nagar, Vanjur Katpadi,
Vellore - 632 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to obtain the verification report with regard to the petitioner's school transfer certificate dated 25.06.1969 from the fourth respondent and to sanction monthly pension and remaining unpaid Provident Fund amount under EPF Account No.TB/VLR/18483/66 with interest at 12% per annum to the petitioner from 02.11.2012 onwards retrospectively for the abnormal administrative delay for the sanctioning of the monthly pension and provident fund and to recover the EPF subscriptions towards the holiday and leave wages payable for 1210 days for the period from 01.10.1997 to 01.11.2012.

For Petitioner	: Mr.G.P.Arivuchudar
For RR1 to 4	: Mr.R.Thirunavukarasu Standing Counsel
For R5	: Mr.K.M.Aasim Shehzad for M/s.BFS Legal
R6	: No appearance



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ORDER

The writ petitioner V.Munisamy was employed as Beedi Roller in M/s.V.K.Abdul Jabbar Sahib Sons, Beedi Manufacturing Industries (fifth respondent) through a Beedi Licensed Contractor, V.K.Ramachandran (sixth respondent) for the period from 01.10.1997 to 01.11.2012. According to the writ petitioner, he has rendered more than 15 years of service in Beedi Industry. Though his actual date of birth is 10.09.1958, he attained superannuation on 13.04.2006, since the date of birth in official records was 14.04.1948 In this regard he sent a Transfer Certificate, in which his date of birth is mentioned as 10.09.1958 issued by the Headmaster, Panchayat Union Elementary School, Kazhinjur, Katpadi Taluk, Vellore, to the fifth respondent, after attaining the age of superannuation. However, the sixth respondent did not pay any pensionary benefits. He therefore filed a petition with the second respondent / Regional Provident Fund Commissioner - II, Employee's Provident Fund Organisation, Vellore through the fifth respondent with all his service particulars. Thereafter, the third respondent - Assistant Provident Fund Commissioner, Employee's Provident Fund Organisation, Vellore, settled a sum of Rs.61,382/- towards Provident Fund amount for the period 13.04.1999 to 01.11.2012 and a sum of Rs.18,810/- towards

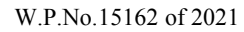


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pensionable service benefit account under E.P.F. Account

No.TB/VLR/18480/88. However, he has not been sanctioned monthly pension under the mandatory provisions of the Employee's Pension Scheme, 1995 till date though he was assured in this regard by the respondents 3 to 6. It is his further submission that he joined the establishment of the fifth respondent on 01.10.1997 and attained superannuation on 01.11.2012 and thus, he had put in 15 years 01 month service in the fifth respondent Beedi Manufacturing Industry. He therefore, filed the present writ petition seeking for a direction to the second respondent to get a verification report, with regard to his date of birth as mentioned in the petitioner's school transfer certificate dated 25.06.1969, from the fourth respondent and also to sanction monthly pension along with Provident Fund amount under E.P.F. Account No.TB/VLR/18483/66 with interest @ 12% per annum.

2. Ms.G.P.Arivuchudar, learned counsel for the writ petitioner contended that it is the admitted case of the fifth respondent that the petitioner had put in 15 years 01 month service and therefore, the petitioner is eligible for pensionary benefits. It is her further submission that though he produced Transfer Certificate issued by the Headmaster,



the same has not been verified till date by the authorities concerned. She would further contend that the petitioner is eligible for pensionary benefits and provident fund amount under E.P.F. Account No.TB/VLR/18483/66 if his actual date of birth is considered.

3. Per contra, Mr.R.Thirunavukarasu, learned Standing Counsel for the third respondent would contend that he filed a detailed counter in which it is stated that the 15 years of service rendered by the petitioner has got relevance only with regard to the Employees Provident Fund Scheme. According to him, this period cannot be taken up as pensionable service as defined under Para 6A read with Para 10 of EPF Act 1995. It is his further contention that since the petitioner had put in only 8 years 6 months and 12 days actual service, he is not eligible for monthly pension.

4. In the instant case, the main reliance was placed upon the reply sent by the Right to Information Act, 2005 dated 18.02.2015 wherein it is stated that the petitioner had put in a total service of 15 years 01 month. In the very same letter break in service details have also been



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indicated as "*Non contributory period (Break in service) is 913 days (i.e.*

up to 13.04.2006)." The contention of the learned counsel for the writ petitioner is that the Transfer Certificate issued by the Headmaster, Panchayat Union Elementary School, Kazhinjur, Katpadi Taluk, Vellore, has not been taken into consideration and it is also not verified till date. However, the fact remains that the petitioner has not raised any objection with regard to his actual date of birth during his membership and he cannot raise this dispute after attaining superannuation just to get monthly pension. Thus, judging from any angle, the writ petitioner is not entitled for any pensionary benefits and Provident Fund amount under E.P.F.Account No.TB/VLR/18483/66 as claimed by him.

Accordingly, this Writ Petition is dismissed. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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