



W.P.No. 20838 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.20838 of 2019

1. A. Irudayasamy (died)

2. I. Vincent Christopher
(substituted as legal heir of deceased
sole petitioner vide order dated 23.08.2022
made in WMP.No.16408 of 2022 in
W.P.No.20838 of 2019 by RSKJ)

.. Petitioner

Versus

1. Union of India
Represented by its,
The Secretary,
Ministry of Labour and Employment
Department of Employment
New Delhi
Pincode-110001.

2. Union of India,
Represented by its,
The Additional Central Provident Fund
Commissioner, Employees' Provident Organisation,
Government of India,
Head Office, Bhavishya Nidhi Bhavan,
No.14, Bhikaji Cama Place,
New Delhi, Pin code-110066.



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3. The Manager

Madras Aluminum Company (MALCO)

Mettur Dam, Salem District, Pin Code 636 402.

4. The Employee's Provident Organisation,

Regional Office,

No.37, Roypettah, high Road, Chennai

Pin Code- 6001014.

5. The Employee's Provident Organisation,

(Ministry of Labour, Government of India)

Regional Office, S.J, Plaza, Swarapuri,

Salem, Pincode – 636 004

...Respondents

Prayer: This to issue a writ of Mamdamus directing the fifth respondent to consider my representation dated 31.01.2019 and direct the fifth respondent to revise my pension on actual service as pre-existing member such as provident fund Number in Bearing Account No.TN/5324/131 in Receipt No.21623 instead of present the actual service as new number in bearing P.P.O. No. TN/SLM/7545 by the fifth respondent and pass orders.

For Petitioner : Mr.D. Yuvarajan

For Respondents and 2 : Mr. K. Subbu Ramy Bharathi

For Respondent 3 : No Appearance

For Respondents 4 and 5 : Mr.V.Vishnu



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ORDER

This petition is filed to consider petitioner's representation dated 31.01.2019.

2.The facts of the case is that the deceased-first petitioner joined as a clerk in the third respondent organisation and thereafter duly promoted as a senior clerk in the year 1965. At the time of retirement i.e on 18.12.1999 the deceased-first petitioner was holding the post of Assistant Engineer. His contribution to the provident fund was accumulated in Account No. TN/5324/131 in Receipt No.21623 through the third respondent. While so, after the superannuation of deceased-first petitioner he was allotted a new number bearing P.P.O.No.TN/SLM/7545 dated 19.10.2001 in Form-D for the sanction of pension under Employee Provident Funds Scheme 1995. The grievance of the deceased-first petitioner is that in the new number bearing P.P.O.No.TN/SLM/7545 the fifth respondent has taken the date of joining as 16.11.1995, whereas the correct one is 24.09.1964 and calculated the service period from 16.11.1995 to 18.12.1999. Hence, this



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petition.

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3.The learned counsel appearing for the petitioner submitted that the fifth respondent has to calculate the actual service of the deceased-first petitioner from 24.09.1964 whereas he has calculated only from 16.11.1995 to 18.12.1999. The fifth respondent has not considered the petitioner's past period of actual service as a pre-existing member. Due to which the petitioner has given a representation to the authorities concerned but no action was taken till date. He further submitted that the sanction of pension under Employee Provident Funds Scheme 1995 was incorrect, baseless. Hence, prays to allow this petition.

4. The learned Government Advocate submitted that as per law while arriving the pension the last drawn wages has to be taken and the same methodology was adopted in this case and the wages received by the petitioner on 15.11.1995 was taken for arriving the pension. Hence, there is no error or infirmity in the pension payment order.

4. Heard both sides and perused the materials available on record



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5. Before advertng further it is relevant to go through the Employees' Pension Scheme 1995 in Section 1 (2) (a) and the same is extracted hereunder:

*“This Scheme shall come into force on 16th
day of November 1995.”*

6. On a perusal of the records it is seen that the respondent have arrived the pension correctly. In the affidavit filed by the petitioner he had stated that on 19.10.2001 the petitioner was drawing Rs.596/- per month and at the time of filing this petition he was drawing Rs.1,000/-. Hence, it is made clear that the fifth respondent was periodically revising the pension. Such being the case, this Court is not inclined to interfere with the revisions of pension which is the subject matter of this petition. It is also seen that during the pendency of this petition, the first petitioner/ A. Irudayasamy and his wife passed away. His son was impleaded to proceed the case further.

7. In view of the above, it is made clear that the prayer sought for



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by the petitioner cannot be granted by this Court and this writ petition deserves to be dismissed.

8. For the reasons aforesaid, nothing survives for consideration in this writ petition and accordingly this writ petition stand dismissed.
There shall be no order as to costs.

20.12.2023

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn



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To
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Department of Employment
New Delhi
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High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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