



W.P.No.19637 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

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M.Balakrishnan, M/age 60
S/o.Muthusamy
Lab Technician (Retd.,)
38, VOC Nagar, 1st West Street
Kovilmedu, Edaiyarpalayam
Velandipalayam Post
Coimbatore 641 025

... Petitioner

/Vs/

1.The Registrar
Tamil Nadu Agriculture University
Coimbatore 641 003

2.The Prof & Head
Department of Food Processing Engg.,
AEC & RI
TNAU, Coimbatore 641 003

3.The Comptroller
Tamil Nadu Agriculture University
Coimbatore 641 003
Respondents

...

Writ Petition is filed under Article 226 of the Constitution of India for



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issuance of Writ of Mandamus to direct the Respondents 1 & 2 to add my services as a casual mazdoor 18 years 7 months with my regular service of 21 years 1 month and 23 days in (total 39 years) and recalculate the pensionary, gratuity and PF benefits etc., and consequently to refund the excess amount recovered from the Petitioner with interest from the date of recovery tilt its payment.

For Petitioner : Mr.M.Gunasekaran

For Respondents : Mr.Vijay Mehanath
Panel Advocate

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus to direct the Respondents 1 & 2 to add my services as a casual mazdoor 18 years 7 months with my regular service of 21 years 1 month and 23 days in (total 39 years) and recalculate the pensionery, gratuity and PF benefits etc., and consequently to refund the excess amount recovered from the Petitioner with interest from the date of recovery tilt its payment.

2.The Petitioner has been appointed as a casual Mazdoor on 02.06.1979 at Tamil Nadu Agriculture University, Coimbatore. During the year 1996 he got



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selected in an interview and got posted as a Lab Assistant and he started working in the said capacity from 02.01.1997 onwards and he got retired on 28.02.2018, after doing 21 years of service. Since the Petitioner is not given with pensionary benefits, this Writ Petition has been filed for issuance of Writ of Mandamus.

3.Heard Mr.M.Gunasekaran, learned counsel for the Petitioner and Mr.Vijay Mehanath, learned Panel Advocate for the Respondents.

4.Mr.M.Gunasekaran, learned counsel for the Petitioner submitted that since the Petitioner has got permanent post with the Respondent University before 01.04.2003, he is entitled to the benefits under G.O.No.408, Finance (Pension) Department, dated 25.08.2009.

5.Mr.M.Gunasekaran, learned counsel for the Petitioner further submitted that similarly placed persons have already claimed similar benefits in *V.Srinivasan (deceased) and others Vs. The Controller, Tamil Nadu Agriculture University and others* (W.P.No.13040 of 2016) and the same was allowed by this Court on 20.07.2023, in accordance with G.O.No.408, Finance (Pension) Department, dated 25.08.2009.



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6. In the above said G.O.No.408, Finance (Pension) Department, dated 25.08.2009, it is said that for those persons who have been permanently absorbed before 01.04.2003, half of their service rendered as casual workers (daily wages) can also be included for the purpose of pensionary benefits. However, those services ought to have been made after 01.01.1961. So far as this Petitioner is concerned, he was appointed as casual mazdoor on 02.06.1976 and he got appointed as Lab Assistant on 02.01.1997. Hence, the Petitioner's half of the service rendered from 02.06.1979 to 02.01.1997 can be included and computed for the purpose of pensionary benefit to the Petitioner.

7. However, the Petitioner seems to have included a prayer for quashing a recovery proceedings, which has a different cause of action. The Petitioner has claimed unrelated matters by relying on G.O.No.408, Finance (Pension) Department, dated 25.08.2009. The prayer of the Petitioner with regard to quashing of proceedings of recovery of excess payment cannot be granted. However the Petitioner is at liberty to file fresh application with regard to the above issue.

8. In the result, this Writ Petition is partly allowed. Respondents 1 & 2



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are directed to consider the request of the Petitioner for granting him pension by way of including half of the service rendered by him in the capacity as daily wager from 02.06.1979 to 02.01.1997 and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No costs.

28.11.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

1.The Registrar
Tamil Nadu Agriculture University
Coimbatore 641 003

2.The Prof & Head
Department of Food Processing Engg.,
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TNAU, Coimbatore 641 003

3.The Comptroller
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R.N.MANJULA, J.

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