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W.P.No.22109 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.22109 of 2021
and WMP.Nos.23327 & 23328 of 2021

R. Manjula

... Petitioner

Vs.

1. The Commissioner
Mettupalayam Municipality
Mettupalayam, Coimbatore District.
2. The Commissioner for Municipal Administration
No.75, Santhome High Road, MRC Nagar,
Raja Annamalaipuram
Chennai 600 028.
3. The Director of Local Fund
Rep. by Assistant Director,
Kuralagam Buildings,
Chennai 600 104.
4. The Secretary to Government of Tamil Nadu
Municipal Administration and Water Supply
Department (in the cadre of Additional Chief Secretary)
Fort St.George, Chennai 600 009.
(R4 impleaded vide order dated 26.04.2022 made
in WMP.No.10137 of 2022
in W.P.No.22109 of 2021 by DKKJ)

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 3rd respondent dated 09.10.2014 issued to the 1st respondent in Mu.Mu.No.29519/Naocha (3)/2014 and quash the same and consequently to direct the 3rd respondent to grant family pension to the petitioner as well as eligible retirement benefits her husband namely Ratnam with 24% per annum from the date of death of her husband within the prescribed time limit.

For Petitioner : Mr.P.I.Thirumoorthy
For Respondents : Mr.T.Chezhiyan
Addl. Government Pleader

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order issued by the 3rd respondent in proceedings Mu.Mu.No.29519/Naocha (3)/2014 dated 09.10.2014 and consequently direct the 3rd respondent to grant family pension to the petitioner as well as eligible retirement benefits of her husband namely Ratnam with 24% per annum from the date of death of her husband within the prescribed time limit.

2. It is the case of the petitioner that her husband was working as Sanitary Worker on daily wages (substitute) in terms of proceedings of the 1st



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respondent dated 07.02.1986 in Na.Ka.No.7885/85/H1. Thereafter Government of Tamil Nadu issued a G.O.Ms.No.71 MAWSS (ME3) Dept dated 05.05.1998 directing all municipalities/Corporations to bring the daily wages employees under regular time scale by prescribing norms. As per norms prescribed provided in sub clause (i) of clause (1) of para 3 of the said G.O., the substitute / daily wages sanitary workers who had served in municipalities for a period more than 10 years shall be appointed under consolidated pay first and then his service should be regularised from the date of completion 3 years consolidated pay service. Since her husband had completed more than 12 years service on the date of issuance of above mentioned G.O, her husband was appointed under consolidated pay on 05.05.1998 in terms of G.O.71 by the 1st respondent in his proceedings Na.Ka.No.5305/97/H1 dated 05.05.1998 in which her husband name was placed in serial No.24. The 1st respondent in his proceedings dated 01.07.1999 in Na.Ka.No.5305/97/H1, brought the consolidated pay employees including her husband who had completed one year service (07.05.1998 to 06.05.1999) under regular time scale of Rs.2550-55-2660-60-3200 with effect from 01.07.1999. Hence the petitioner's husband service was



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regularised on 01.07.1999 itself and he was eligible to claim regular Pension on the date of his death under old Pension scheme and hence consequently the petitioner is entitled for Family pension and retirement arrears of petitioner's husband. The 3rd respondent has failed to consider that when similarly placed legal heirs were granted pension, the denial to the petitioner alone would be violation of Article 14 of the constitution between similarly placed persons and also failed to consider that till date regularisation done to the petitioner's husband was not disturbed and hence the petitioner is entitled to claim eligible retirement benefits of her husband and consequential family pension. Hence, the present Writ Petition.

3. Today when the matter was taken up for hearing, the learned Additional Advocate General – II Assisted by Mr.T.Chezhiyan, learned Additional Government Pleader furnished a copy of the letter (3P) No.02, dated 08.03.2023 of the Municipal Administration & Water Supply Department, Fort St.George, Chennai addressed to the Director of Local Fund Audit, Chennai and the relevant paragraphs 9 & 10 of the said letter are worth extracting.



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9. மேலேயே பத்தி 8-ல் உள்ள நகராட்சி தீர்மானம் இயக்குறியின் செயற்குறிப்பின்பின் அங்க கலவைமாக பரிசீலிக்கும் பரிமாண ஒன்று மூலம் கிடைத்த கலவை உள்ள அரண்மனைகளின் அடிப்படையில் பரிசீலனைக்குரிய அதுவரை ஏற்று நகராட்சிகள் / மாநகராட்சிகளில் 30.04.1997-ஆம் தேதிக்குப் பின்னர் தொடரப்பட்டிருந்த பணியில் அடங்கியிருந்த 01.04.2003 தேதிக்கு முன்னர் (அதாவது புதிய பங்களிப்பு ஒப்பந்தம் திட்டம் நடைமுறைப்படுத்தப்பட்ட நூன்) பணிவரன்முறைப்படுத்தப்பட்டு முறைபாண கலதிய கிடைத்த பணியைத்தேர்ந்தெடுத்த 1.7.79 நகராட்சிப் பணியாளர்கள் மற்றும் 20 மாநகராட்சிகளைச் (பெருநகர சென்னை மாநகராட்சி தீர்மானம்) சேர்ந்த 1839 பணியாளர்களுக்கும் தகுதி வாய்ந்த ஒப்பந்தம் பணிகளை வழங்குமாறு தங்களுக்கு அரசுத் தொழிலாளை வழங்கப்படுகிறது.

10. இதுகுறித்து அனைத்து கனிப்பட்ட ஒப்பந்தம் கருத்துருக்களின் உண்மைத் தன்மையை சரிபார்ப்பது சம்பந்தப்பட்ட நகராட்சிகள் / மாநகராட்சிகளின் பொறுப்பாகும் என்று தங்களுக்கு தெரிவித்துக் கொள்கிறேன்.

தங்கள் உண்மையுள்ள
அரசு சட்டத்துத் தலைமைச் செயலாளருக்காக
08/08/2023

4. In view of the above, this writ petition is disposed of and the pension arrears consequent to the order passed by the first respondent dated 08.03.2023 shall be settled to the petitioner within a period of six months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is also closed.

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Speaking Order : Yes/No

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5. The Assistant Director of Local Fund Audit
Integrated Complex for Finance Department
Animal Husbandry Hospital Campus,
Nandanam, Chennai 600 035.

J. SATHYA NARAYANA PRASAD, J.

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