



W.P.No.23552 of 2019

WIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

Writ Petition No. 23552 of 2019

S. Krishnan

.. Petitioner

Versus

1. The Secretary to Government
Municipal Administration & Water Supply Department
Fort St. George
Chennai – 600 009
2. The Director of Municipal Administration
Urban Administration Buildings, M.R.C.Nagar
Chennai – 600 028
3. The Director of Local Fund Audit
Integrated Complex for Finance Department
Animal Husbandry Hospital Campus
Nandanam, Chennai – 600 035
4. The Commissioner
Devakottai Municipality
Devakottai
Sivagangai District

... Respondents



W.P.No.23552 of 2019

Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus or direction in the nature of the writ to direct the respondents to sanction pension and other pensionary benefits to the petitioner under Tamil Nadu Pension Rules 1978 (old pension scheme) with effect from his date of retirement on 31.03.2019 by counting half of the services rendered by him from 02.05.1986 to 16.03.2006 on daily wages on full time basis along with his regular service from 17.03.2006 to 31.03.2019 (date of Superannuation) as qualifying service with all consequential monetary and service benefits.

For Petitioner : Mr. R. Prem Narayan
For Respondents : Mr. T.M. Rajangam
Government Advocate for R1 to R3

Mr. S. Nambi Arooran for R4

ORDER

This Writ Petition is filed by the petitioner for issuance of a Writ of Mandamus to direct the respondents to sanction pension and other pensionary benefits to him under the Tamil Nadu Pension Rules 1978 (old pension scheme) with effect from the date of his retirement on 31.03.2019 by counting half of the services rendered by him from 02.05.1986 to 16.03.2006 on daily wages on full time basis along with his regular service from 17.03.2006 to 31.03.2019 (date of Superannuation) as qualifying service with all consequential monetary and service benefits.



W.P.No.23552 of 2019

2. Heard the learned counsel on either side and perused the materials available on record.

3. The issue involved in this Writ Petition is covered by the Judgment of the Full Bench of this Court in the case of **The Government of Tamil Nadu, rep. by its Secretary, PWD Department and others Vs. R. Kaliyamoorthy** reported in **2019 (6) CTC 705 = 2020 (2) MLJ 369** wherein the Full Bench of this Court considered as to whether the persons like the petitioner herein, whose services were regularised after 01.04.2003, are eligible to get pension under Rule 11 (4) of the Tamil Nadu Pension Rules. It would be useful to quote the relevant portion of the said Judgment as follows;

"46. In the light of the above, we answer the reference as follows;-

(i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.



WEB COPY



W.P.No.23552 of 2019

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularized before 01.04.2003, half of service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10(a)(1) of Tamil Nadu State and Subordinate Service Rules and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.”

In the present case, the petitioner states that he was initially appointed on daily wage basis on 02.05.1986 as Road Maintenance Worker until 16.03.2006 and thereafter, on and from 17.03.2006, his service came to be regularised and posted in the fourth respondent Municipality in the cadre post of Sanitary Worker. However, on and from 01.04.2003, the new pension rules came into force replacing the old scheme. Thus, admittedly, the service of the petitioner was regularised after the cut off date namely 01.04.2003, on 17.03.2006.

Therefore, as per the decision of the Full Bench of this Court in Para No.46



W.P.No.23552 of 2019

(v), when the petitioner was appointed after the cut-off date, the service rendered by him from 02.05.1986 till 16.03.2006 cannot be ordered to be counted for the purpose of conferment of pension along with the regular service rendered by him from 17.03.2006 till the date of his retirement on 31.03.2019. Thus, the relief sought for by the petitioner in this writ petition cannot be granted. Accordingly, by following the above said Judgment of the Full Bench of this Court, the present writ Petition is dismissed in the same terms. There shall be no order as to costs.

30.03.2023

(2/2)

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

ksa-2



WEB COPY



W.P.No.23552 of 2019

V.BHAVANI SUBBAROYAN, J.

ksa-2

To

1. The Secretary to Government
Municipal Administration & Water Supply Department
Fort St. George
Chennai – 600 009
2. The Director of Municipal Administration
Urban administration Buildings, M.R.C.Nagar
Chennai – 600 028
3. The Director of Local Fund Audit
Integrated Complex for Finance Department
Animal Husbandry Hospital Campus
Nandanam, Chennai – 600 035
4. The Commissioner
Devakottai Municipality
Devakottai
Sivagangai District

W.P.No.23552 of 2019

30.03.2023

(2/2)